

SUBSTITUTE FOR
HOUSE BILL NO. 5237

(As amended October 20, 2005)

(As amended, November 3, 2005)

[<<A bill to amend 1991 PA 179, entitled "Michigan telecommunications act," by amending sections 101, 102, 103, 201, 202, 203, 203a, 204, 205, 210, 213, 214, 301, 302, 303, 304, 305, 306, 307, 309, 309a, 310, 312, 314a, 315, 316, 316a, 317, 321, 352, 353, 355, 357, 358, 359, 401, 502, 504, 505, and 604 (MCL 484.2101, 484.2102, 484.2103, 484.2201, 484.2202, 484.2203, 484.2203a, 484.2204, 484.2205, 484.2210, 484.2213, 484.2214, 484.2301, 484.2302, 484.2303, 484.2304, 484.2305, 484.2306, 484.2307, 484.2309, 484.2309a, 484.2310, 484.2312, 484.2314a, 484.2315, 484.2316, 484.2316a, 484.2317, 484.2321, 484.2352, 484.2353, 484.2355, 484.2357, 484.2358, 484.2359, 484.2401, 484.2502, 484.2504, 484.2505, and 484.2604), sections 101, 103, 201, 203, 203a, 302, 303, 304, 310, 312, 502, and 604 as amended

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and sections 214 and 316a as added by 2000 PA 295, section 102 as amended by 1998 PA 41, sections 202, 205, 210, 301, 305, 306, 307, 309a, and 401 as amended and sections 317, 321, 352, 353, 355, 357, 358, 359, and 504 as added by 1995 PA 216, section 213 as amended by 2004 PA 591, section 314a as added by 2003 PA 206, section 316 as amended by 1999 PA 31, and section 505 as added by 1998 PA 260, and by adding sections 211a, 252, 301a, 305a, 305b, 310a, 314b, and 353a; and to repeal acts and parts of acts.>>]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 101. (1) This act shall be known and may be cited as the
2 "Michigan telecommunications act".

3 (2) The purpose of this act is to do all of the following:

4 (a) Ensure that every person has access to just, reasonable,
5 and affordable basic residential telecommunication service.

6 (b) Allow and encourage competition to determine the
7 availability, prices, terms, and other conditions of providing
8 telecommunication services.

9 (c) Restructure regulation to focus on price and quality of
10 service and not on the provider. Supplement existing state and
11 federal law regarding antitrust, consumer protection, and fair
12 trade to provide additional safeguards for competition and
13 consumers.

14 (d) Encourage the introduction of new services, the entry of
15 new providers, the development of new technologies, and increase
16 investment in the telecommunication infrastructure in this state
17 through incentives to providers to offer the most efficient
18 services and products.

19 (e) Improve the opportunities for economic development and the

1 delivery of essential services including education and health care.

2 (f) Streamline the process for setting and adjusting the rates
3 for regulated services that will ensure effective rate review and
4 reduce the costs and length of hearings associated with rate cases.

5 (g) Encourage the use of existing educational
6 telecommunication networks and networks established by other
7 commercial providers as building blocks for a cooperative and
8 efficient statewide educational telecommunication system.

9 (h) Ensure effective **AND TIMELY** review and disposition of
10 disputes between telecommunication providers.

11 (i) Authorize actions to encourage the development of a
12 competitive telecommunication industry.

13 Sec. 102. As used in this act:

14 (a) "Access service" means access to a local exchange network
15 for the purpose of enabling a provider to originate or terminate
16 telecommunication services within the local exchange. Except for
17 end-user common line services, access service does not include
18 access service to a person who is not a provider.

19 (b) "Basic local exchange service" or "local exchange service"
20 means the provision of an access line and usage within a local
21 calling area for the transmission of high-quality 2-way interactive
22 switched voice or data communication.

23 **(C) "BROADBAND SERVICE" MEANS A RETAIL SERVICE CAPABLE OF**
24 **TRANSMITTING DATA OVER AN ACCESS LINE AT A RATE GREATER THAN 200**
25 **KILOBITS PER SECOND.**

26 **(D) —(e)—** "Cable service" means 1-way transmission to
27 subscribers of video programming or other programming services and

1 subscriber interaction for the selection of video programming or
2 other programming services.

3 (E) ~~—(d)—~~ "Commission" means the Michigan public service
4 commission.

5 (F) ~~—(e)—~~ "Contested case" or "case" means a proceeding as
6 defined in section 3 of the administrative procedures act of 1969,
7 1969 PA 306, MCL 24.203.

8 (G) ~~—(f)—~~ "Educational institution" means a public educational
9 institution or a private non-profit educational institution
10 approved by the department of education to provide a program of
11 primary, secondary, or higher education, a public library, or a
12 nonprofit association or consortium whose primary purpose is
13 education. A nonprofit association or consortium under this
14 subdivision shall consist of 2 or more of the following:

15 (i) Public educational institutions.

16 (ii) Nonprofit educational institutions approved by the
17 department of education.

18 (iii) The state board of education.

19 (iv) Telecommunication providers.

20 (v) A nonprofit association of educational institutions or
21 consortium of educational institutions.

22 (H) **"END USER" MEANS THE RETAIL SUBSCRIBER OF A**
23 **TELECOMMUNICATION SERVICE.**

24 (I) ~~—(g)—~~ "Energy management services" means a service of a
25 public utility providing electric power, heat, or light for energy
26 use management, energy use control, energy use information, and
27 energy use communication.

(J) ~~—(h)—~~ "Exchange" means 1 or more contiguous central offices and all associated facilities within a geographical area in which **BASIC** local exchange ~~telecommunication services are~~ **SERVICE** **IS** offered by a provider.

(K) ~~—(i)—~~ "Information services" or "enhanced services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information, including energy management services, that is conveyed by telecommunications. Information services or enhanced services do not include the use of such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

(L) ~~—(j)—~~ "Interconnection" means the technical arrangements and other elements necessary to permit the connection between the switched networks of 2 or more providers to enable a telecommunication service originating on the network of 1 provider to terminate on the network of another provider.

~~——— (k) "Inter LATA prohibition" means the prohibitions on the offering of inter exchange or inter LATA service contained in the modification of final judgment entered pursuant to a consent decree in United States v American Telephone and Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982), and in the consent decree approved in United States v GTE Corp., 603 F. Supp. 730 (D.D.C. 1984).~~

~~——— (l) "LATA" means the local access and transport area as defined in United States v American Telephone and Telegraph Co., 569 F. Supp. 990 (D.D.C. 1983).~~

(m) "License" means a license issued pursuant to this act.

1 (n) "Line" or "access line" means the medium over which a
2 telecommunication user connects into the local exchange.

3 (o) "Local calling area" means a geographic area encompassing
4 1 or more local communities as described in maps, tariffs, or rate
5 schedules filed with and approved by the commission.

6 (p) "Local directory assistance" means the provision by
7 telephone of a listed telephone number within the caller's area
8 code.

9 (q) "Local exchange rate" means the monthly and usage rate,
10 including all necessary and attendant charges, imposed for basic
11 local exchange service to customers.

12 (r) "Loop" means the transmission facility between the network
13 interface on a subscriber's premises and the main distribution
14 frame in the servicing central office.

15 (s) "Operator service" means a telecommunication service that
16 includes automatic or live assistance to a person to arrange for
17 completion and billing of a telephone call originating within this
18 state that is specified by the caller through a method other than 1
19 of the following:

20 (i) Automatic completion with billing to the telephone from
21 which the call originated.

22 (ii) Completion through an access code or a proprietary account
23 number used by the person, with billing to an account previously
24 established with the provider by the person.

25 (iii) Completion in association with directory assistance
26 services.

27 (t) "Operator service provider" or "OSP" means a provider of

1 operator service.

2 (u) "Payphone service" means a telephone call provided from a
3 public, semipublic, or individually owned and operated telephone
4 that is available to the public and is accessed by the depositing
5 of coin or currency or by other means of payment at the time the
6 call is made.

7 (v) "Person" means an individual, corporation, partnership,
8 association, governmental entity, or any other legal entity.

9 (w) "Person with disabilities" means a person who has 1 or
10 more of the following physical characteristics:

11 (i) Blindness.

12 (ii) Inability to ambulate more than 200 feet without having to
13 stop and rest during any time of the year.

14 (iii) Loss of use of 1 or both legs or feet.

15 (iv) Inability to ambulate without the prolonged use of a
16 wheelchair, walker, crutches, braces, or other device required to
17 aid mobility.

18 (v) A lung disease from which the person's expiratory volume
19 for 1 second, when measured by spirometry, is less than 1 liter, or
20 from which the person's arterial oxygen tension is less than 60
21 mm/hg of room air at rest.

22 (vi) A cardiovascular disease from which the person measures
23 between 3 and 4 on the New York heart classification scale, or from
24 which a marked limitation of physical activity causes fatigue,
25 palpitation, dyspnea, or anginal pain.

26 (vii) Other diagnosed disease or disorder including, but not
27 limited to, severe arthritis or a neurological or orthopedic

1 impairment that creates a severe mobility limitation.

2 (x) "Port" except for the loop, means the entirety of local
3 exchange, including dial tone, a telephone number, switching
4 software, local calling, and access to directory assistance, a
5 white pages listing, operator services, and interexchange and
6 intra-LATA toll carriers.

7 (Y) "PRIMARY BASIC LOCAL EXCHANGE SERVICE" MEANS THE PROVISION
8 OF 1 PRIMARY ACCESS LINE TO A RESIDENTIAL CUSTOMER FOR VOICE
9 COMMUNICATION AND SHALL INCLUDE ALL OF THE FOLLOWING:

10 (i) NOT FEWER THAN 100 OUTGOING CALLS PER MONTH.

11 (ii) NOT LESS THAN 12,000 OUTGOING MINUTES PER MONTH.

12 (iii) UNLIMITED INCOMING CALLS.

13 (Z) "PUBLIC SAFETY SYSTEM" MEANS A COMMUNICATION SYSTEM
14 OPERATED BY A PUBLIC ENTITY TO PROVIDE EMERGENCY POLICE, FIRE,
15 MEDICAL, AND OTHER FIRST RESPONDER SERVICES. PUBLIC SAFETY SYSTEM
16 INCLUDES THE MICHIGAN STATE POLICE COMMUNICATION SYSTEM.

17 (AA) ~~—(y)—~~ "Reasonable rate" or "just and reasonable rate"
18 means a rate that is not inadequate, excessive, or unreasonably
19 discriminatory. A rate is inadequate if it is less than the total
20 service long run incremental cost of providing the service.

21 (BB) ~~—(z)—~~ "Residential customer" means a person to whom
22 telecommunication services are furnished predominantly for personal
23 or domestic purposes at the person's dwelling.

24 (CC) ~~—(aa)—~~ "Special access" means the provision of access
25 service, other than switched access service, to a local exchange
26 network for the purpose of enabling a provider to originate or
27 terminate telecommunication service within the exchange, including

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1 the use of local private lines.

2 (DD) ~~—(bb)—~~ "State institution of higher education" means an
3 institution of higher education described in sections 4, 5, and 6
4 of article VIII of the state constitution of 1963.

5 (EE) "TELECOMMUNICATION ACT OF 1996" MEANS PUBLIC LAW 104-104,
6 110 STAT. 56.

7 (FF) ~~—(ee)—~~ "Telecommunication provider" or "provider" means a
8 person ~~or an affiliate of the person each of which~~ THAT for
9 compensation provides 1 or more telecommunication services.
10 TELECOMMUNICATION PROVIDER DOES NOT INCLUDE A PROVIDER OF
11 COMMERCIAL MOBILE SERVICE AS DEFINED IN SECTION 332(D)(1) OF THE
12 ~~<<TELECOMMUNICATIONS ACT OF 1996>>~~, 47 USC 332.

13 (GG) ~~—(dd)—~~ "Telecommunication services" or "services"
14 includes regulated and unregulated services offered to customers
15 for the transmission of 2-way interactive communication and
16 associated usage. A telecommunication service is not a public
17 utility service.

18 (HH) ~~—(ee)—~~ "Toll service" means the transmission of 2-way
19 interactive switched communication between local calling areas.
20 Toll service does not include individually negotiated contracts for
21 similar telecommunication services or wide area telecommunications
22 service.

23 (II) ~~—(ff)—~~ "Total service long run incremental cost" means,
24 given current service demand, including associated costs of every
25 component necessary to provide the service, 1 of the following:

26 (i) The total forward-looking cost of a telecommunication
27 service, relevant group of services, or basic network component,

1 using current least cost technology that would be required if the
2 provider had never offered the service.

3 (ii) The total cost that the provider would incur if the
4 provider were to initially offer the service, group of services, or
5 basic network component.

6 (JJ) ~~(gg)~~ "Wide area telecommunications service" or "WATS"
7 means the transmission of 2-way interactive switched communication
8 over a dedicated access line.

9 Sec. 103. (1) Except as otherwise provided in this act, this
10 act shall not be construed to prevent any person from providing
11 telecommunication services in competition with another
12 telecommunication provider.

13 (2) The commission shall submit an annual report describing
14 the status of competition in telecommunication services in this
15 state, including, but not limited to, the toll and local exchange
16 service markets in this state. The report required under this
17 section shall be submitted to the governor and the house and senate
18 standing committees with oversight of telecommunication issues.

19 (3) **A PROVIDER SHALL SUBMIT TO THE COMMISSION ALL INFORMATION**
20 **REQUESTED BY THE COMMISSION NECESSARY FOR THE PREPARATION OF THE**
21 **ANNUAL REPORT UNDER THIS SECTION.**

22 Sec. 201. (1) Except as otherwise provided by this act **OR**
23 **FEDERAL LAW**, the Michigan public service commission shall have the
24 jurisdiction and authority to administer this act and all federal
25 telecommunications laws, rules, orders, and regulations that are
26 delegated to the state.

27 (2) The commission shall exercise its jurisdiction and

1 authority consistent with this act and all federal
2 telecommunications laws, rules, orders, and regulations.

3 Sec. 202. (1) In addition to the other powers and duties
4 prescribed by this act, the commission shall do all of the
5 following:

6 (a) Establish by order the manner and form in which
7 telecommunication providers of regulated services within the state
8 keep accounts, books of accounts, and records in order to determine
9 the total service long run incremental costs and imputation
10 requirements of this act of providing a service. The commission
11 requirements under this subdivision shall be consistent with any
12 regulations covering the same subject matter made by the federal
13 communications commission.

14 (b) Require by order that a provider of a regulated service,
15 including access service, make available for public inspection and
16 file with the commission a schedule of the provider's rates,
17 services, and conditions of service, including access service
18 provided by contract.

19 (c) Promulgate rules under section 213 ~~and issue orders to~~
20 ~~establish and enforce quality standards for providing~~
21 ~~telecommunication services in this state.~~ **TO ESTABLISH AND ENFORCE**
22 **QUALITY STANDARDS FOR ALL OF THE FOLLOWING:**

23 (i) **THE PROVISION OF BASIC LOCAL EXCHANGE SERVICE TO END USERS.**

24 (ii) **THE PROVISION OF UNBUNDLED NETWORK ELEMENTS AND LOCAL**
25 **INTERCONNECTION SERVICES TO PROVIDERS WHICH ARE USED IN THE**
26 **PROVISION OF BASIC LOCAL EXCHANGE SERVICE.**

27 (iii) **THE TIMELY AND COMPLETE TRANSFER OF AN END USER FROM 1**

1 PROVIDER OF BASIC LOCAL EXCHANGE SERVICE TO ANOTHER PROVIDER.

2 (iv) PROVIDERS OF BASIC LOCAL EXCHANGE SERVICE THAT CEASE TO
3 PROVIDE THE SERVICE TO ANY SEGMENT OF END USERS OR GEOGRAPHIC AREA,
4 GO OUT OF BUSINESS, OR WITHDRAW FROM THE STATE, INCLUDING THE
5 TRANSFER OF CUSTOMERS TO OTHER PROVIDERS AND THE RECLAIMING OF
6 UNUSED TELEPHONE NUMBERS.

7 (d) Preserve the provision of high quality basic local
8 exchange service.

9 ~~—— (e) Create a task force to study changes occurring in the
10 federal universal service fund and the need for the establishment
11 of a state universal service fund to promote and maintain basic
12 local exchange service in high cost rural areas at affordable
13 rates. The task force shall issue a report to the legislature and
14 governor on or before December 31, 1996 containing its findings and
15 recommendations. The task force shall consist of all of the
16 following members:~~

17 ~~—— (i) The chairperson of the commission.~~

18 ~~—— (ii) One representative from each basic local exchange provider
19 with 250,000 or more access lines.~~

20 ~~—— (iii) Four representatives from providers who, together with
21 affiliated providers, provide basic local exchange or toll service
22 to less than 250,000 end users in this state.~~

23 ~~—— (iv) Two representatives of other providers of regulated
24 services.~~

25 ~~—— (v) One representative of the general public.~~

26 ~~—— (f) On or before January 1, 1997, the commission shall study
27 and report to the legislature and governor on the following matters~~

~~that have impact on the basic local exchange calling activities of all residential customers in the state.~~

~~—— (i) The percentage of intra LATA calls and minutes of usage which are charged as basic local exchange calls.~~

~~—— (ii) The average size and range of sizes of basic local exchange calling areas.~~

~~—— (iii) The ability of customers to contact emergency services, school districts, and county, municipal, and local units of government without a toll call.~~

~~—— (iv) Whether there are significant differences in basic local exchange calling patterns between urban, suburban, and rural areas.~~

~~—— (v) The impact on basic local exchange rates which would occur if basic local exchange calling areas are altered.~~

~~—— (vi) The impact when basic local exchange calling areas overlap LATA boundaries.~~

~~—— (vii) The impact on basic local exchange rates which would occur if basic local exchange calling areas are expanded within LATA boundaries.~~

~~—— (g) On or before January 1, 1997, conduct a study of internet access provider locations to determine which exchanges can reach the nearest location only by making a toll call. The commission shall then gather input from internet access providers, local exchange providers, and other interested parties and make a recommendation to the legislature as to the steps needed to allow all local exchange customers to access an internet provider by making a local call.~~

(2) RULES PROMULGATED UNDER SUBSECTION (1) (C) SHALL INCLUDE

1 REMEDIES FOR THE ENFORCEMENT OF THE RULES THAT ARE CONSISTENT WITH
2 THIS ACT AND FEDERAL LAW. RULES PROMULGATED UNDER SUBSECTION
3 (1) (C) (ii) SHALL NOT APPLY TO THE PROVISION OF UNBUNDLED NETWORK
4 ELEMENTS AND LOCAL INTERCONNECTION SERVICES SUBJECT TO QUALITY
5 STANDARDS IN AN INTERCONNECTION AGREEMENT APPROVED BY THE
6 COMMISSION. IN PROMULGATING ANY RULES UNDER SUBSECTION (1) (C), THE
7 COMMISSION SHALL CONSIDER TO WHAT EXTENT CURRENT MARKET CONDITIONS
8 ARE SUFFICIENT TO PROVIDE ADEQUATE SERVICE QUALITY TO BASIC LOCAL
9 EXCHANGE SERVICE END USERS. ANY SERVICE QUALITY RULES PROMULGATED
10 BY THE COMMISSION SHALL EXPIRE WITHIN 3 YEARS OF THE EFFECTIVE DATE
11 OF THE RULES. THE COMMISSION MAY, PRIOR TO THE EXPIRATION OF THE
12 RULES, PROMULGATE NEW RULES UNDER SUBSECTION (1) (C).

13 (3) THE COMMISSION SHALL PERMIT THE ELECTRONIC FILING OF ANY
14 PLEADINGS, TARIFFS, OR ANY OTHER DOCUMENT REQUIRED OR ALLOWED TO BE
15 FILED WITH THE COMMISSION UNDER THIS ACT.

16 Sec. 203. (1) Upon receipt of an application or complaint
17 filed under this act, or on its own motion, the commission may
18 conduct an investigation, hold hearings, and issue its findings and
19 order under the contested hearings provisions of the administrative
20 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

21 (2) If a complaint filed under this section alleges facts that
22 warrant emergency relief, the complainant may request an emergency
23 relief order. On the date of filing, the complaint and request for
24 emergency relief shall be hand-delivered to the respondent at its
25 principal place of business in Michigan. The commission shall allow
26 5 business days for a filing in response to the request for
27 emergency relief. The commission shall review the complaint, the

1 request for emergency relief, the response, and all supporting
2 materials and determine whether to deny the request for emergency
3 relief or to conduct an initial evidentiary hearing. The initial
4 evidentiary hearing shall be conducted within 5 business days from
5 the date of the notice of hearing and the commission shall issue an
6 order granting or denying the request for emergency relief. An
7 order for emergency relief may require a party to act or refrain
8 from action to protect competition. Any action required by an order
9 for emergency relief shall be technically feasible and economically
10 reasonable and the respondent shall be given a reasonable period of
11 time to comply with the order. At the hearing for emergency relief,
12 the respondent has the burden of showing that the order is not
13 technically feasible and not economically reasonable. If the
14 commission finds that extraordinary circumstances exist that
15 warrant expedited review before the commission's issuance of a
16 final order, it shall set a schedule providing for the issuance of
17 a partial final order as to all or part of the issues for which
18 emergency relief was granted within 90 days of the issuance of the
19 emergency relief order.

20 (3) An order for emergency relief may be granted under
21 subsection (2) if the commission finds all of the following:

22 (a) That the party has demonstrated exigent circumstances that
23 warrant emergency relief.

24 (b) That the party seeking relief will likely succeed on the
25 merits.

26 (c) That the party will suffer irreparable harm in its ability
27 to serve customers if emergency relief is not granted.

1 (d) That the order is not adverse to the public interest.

2 (4) The commission may require the complainant to post a bond
3 in an amount sufficient to make whole the respondent in the event
4 that the order for emergency relief is later found to have been
5 erroneously granted.

6 (5) An order for emergency relief shall expire upon the sooner
7 of any of the following:

8 (a) Ninety days after its issuance.

9 (b) Issuance of the commission's partial final order.

10 (c) An earlier date set by the commission. Notwithstanding
11 this subsection, the commission may extend the emergency relief
12 order to a date no later than the date on which the final order in
13 the proceeding is issued.

14 (6) An order granting or denying emergency relief under
15 subsection (2) shall be subject to immediate review in the court of
16 appeals as a matter of right by the party aggrieved. The review
17 shall be de novo and shall comply with Michigan court rule
18 7.211(c)(6). The court may stay an order granting emergency relief
19 upon the posting of a bond or other security in an amount and on
20 terms set by the court. Regardless of whether an appeal is made
21 under this subsection, the commission shall proceed with the case
22 and issue a final order as otherwise required under this section.

23 (7) An application or complaint filed under this section shall
24 contain all information, testimony, exhibits, or other documents
25 and information within the person's possession on which the person
26 intends to rely to support the application or complaint.
27 Applications or complaints that do not meet the requirements of

1 this subsection shall be dismissed or suspended pending the receipt
2 by the commission of the required information. If the complainant
3 or applicant requires information in the possession of the
4 respondent, not within the complainant's or applicant's possession,
5 the commission may allow a reasonable opportunity for discovery to
6 allow the complainant or applicant to provide all relevant
7 information, testimony, exhibits, or other documents on which the
8 complainant or applicant intends to rely to support its application
9 or complaint.

10 (8) The burden of proving a case filed under this act is with
11 the party filing the application or complaint.

12 (9) In a contested case under this section, the commission can
13 administer oaths, certify all official acts, and compel the
14 attendance of witnesses and the production of papers, books,
15 accounts, documents, and testimony.

16 (10) Except as otherwise provided in this section, the
17 commission shall issue a final order in a case filed under this
18 section within 90 days from the date the application or complaint
19 is filed.

20 (11) Except as provided for a hearing involving a request for
21 emergency relief, if a hearing is required, the applicant or
22 complainant shall publish a notice of hearing as required by the
23 commission within 7 days of the date the application or complaint
24 was filed or as required by the commission. The first hearing shall
25 be held within 10 days after the date of the notice. If a hearing
26 is held, the commission shall have 180 days from the date the
27 application or complaint was filed to issue its final order. If the

1 principal parties of record agree that the complexity of issues
2 involved requires additional time, the commission may have up to
3 210 days from the date the application or complaint was filed to
4 issue its final order. If the application or complaint is subject
5 to section 203a, the commission shall have an additional ~~45~~ 60
6 days to issue its final order.

7 (12) An order of the commission ~~shall be subject to review as~~
8 ~~provided by section 26 of 1909 PA 300, MCL 462.26~~ **UNDER THIS ACT**
9 **IS SUBJECT TO APPELLATE REVIEW AS OF RIGHT IN THE COURT OF APPEALS.**
10 **THE APPEAL SHALL BE INITIATED BY THE FILING OF A CLAIM OF APPEAL**
11 **WITH THE COURT OF APPEALS WITHIN 30 DAYS OF THE ISSUANCE OF AN**
12 **ORDER OR WITHIN 30 DAYS OF AN ORDER ISSUED ON A PETITION FOR**
13 **REHEARING OF AN ORDER.**

14 (13) If a complaint is filed under this section by a provider
15 against another provider, the provider of service shall not
16 discontinue service during the period of the contested case,
17 including the alternative dispute process, if the provider
18 receiving the service has posted a surety bond, provided an
19 irrevocable letter of credit, or provided other adequate security
20 in an amount and on a form as determined by the commission.

21 (14) Except if there is a request for emergency relief under
22 this section, if the complaint filed under this section involves an
23 interconnection dispute between providers, the commission shall
24 require the parties to utilize the alternative dispute process
25 under section 203a.

26 (15) In addition to any other relief provided by this act, the
27 commission or a party may seek to compel compliance with a

1 commission order by proceedings in mandamus, injunction, or by
 2 other appropriate civil remedies in the circuit court or other
 3 court of proper jurisdiction.

4 (16) ~~The amendatory act that added this subsection does not~~
 5 ~~amend, alter, or limit any case or proceeding commenced before the~~
 6 ~~effective date of this subsection.~~ **UPON THE FILING OF A MOTION FOR**
 7 **STAY, THE COMMISSION MAY, ON TERMS AS IT CONSIDERS JUST, STAY THE**
 8 **EFFECT OR ENFORCEMENT OF AN ORDER, EXCEPT AN ORDER REGARDING RATES**
 9 **OR COST STUDIES. A MOTION FOR STAY, INCLUDING A REQUEST FOR SETTING**
 10 **THE AMOUNT OF ANY APPEAL BOND, ARE GOVERNED BY THE PROVISIONS FOR**
 11 **OBTAINING A STAY OF A CIVIL ACTION SET FORTH IN RULE 7.209 OF THE**
 12 **MICHIGAN COURT RULES. THE COMMISSION SHALL DECIDE A MOTION FOR STAY**
 13 **WITHIN 10 DAYS FROM THE DATE THE MOTION IS FILED WITH THE**
 14 **COMMISSION.**

15 Sec. 203a. (1) For all complaints involving a dispute of
 16 \$1,000.00 or less, a dispute under section 203(14), or ~~at the~~
 17 ~~option of the complainant~~ **UPON THE CONSENT OF ALL PARTIES AFTER**
 18 **THE COMPLAINT IS FILED**, for a period of ~~45~~ 60 days after the date
 19 the complaint is filed under section 203, the parties shall attempt
 20 alternative means of resolving the complaint.

21 (2) Any alternative means that will result in a recommended
 22 settlement may be used that is agreed to by the principal parties
 23 of record, including, but not limited to, settlement conferences,
 24 mediation, and other informal dispute resolution methods. If the
 25 parties cannot agree on an alternative means within ~~20~~ 10 days
 26 after the date the complaint is filed, the commission shall order
 27 mediation. Within the ~~45-day~~ 60-DAY period required under

1 subsection (1), a recommended settlement shall be made to the
2 parties.

3 (3) Within 7 days after the date of the recommended
4 settlement, each party shall file with the commission a written
5 acceptance or rejection of the recommended settlement. If the
6 parties accept the recommendation, then the recommendation shall
7 become the final order in the contested case under section 203.

8 (4) If a party rejects **OR FAILS TO RESPOND WITHIN 7 DAYS TO**
9 the recommended settlement, then the application or complaint shall
10 proceed to a contested case hearing under section 203.

11 (5) The party that rejects the recommended settlement shall
12 pay the opposing party's actual costs of proceeding to a contested
13 case hearing, including attorney fees, unless the final order of
14 the commission is more favorable to the rejecting party than the
15 recommended settlement under this section. A final order is
16 considered more favorable if it differs by 10% or more from the
17 recommended settlement in favor of the rejecting party.

18 (6) If the recommendation is not accepted under subsection
19 (3), the individual commissioners shall not be informed of the
20 recommended settlement until they have issued their final order
21 under section 203.

22 (7) An attempt to resolve a contested case under this section
23 is exempt from the requirements of section 203 and the
24 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
25 24.328.

26 ~~—— (8) This section shall not extend or toll the time within~~
27 ~~which the commission is required to issue its final order under~~

1 ~~section 203.~~

2 Sec. 204. If 2 or more telecommunication providers are unable
3 to agree on a matter relating to a regulated telecommunication
4 ~~issue between the parties, including but not limited to,~~ **SERVICE**
5 **OR** a matter prohibited by section 305, then either
6 telecommunication provider may file with the commission an
7 application for resolution of the matter.

8 Sec. 205. (1) The commission may investigate and resolve
9 complaints under this act. The penalties under this act shall not
10 be imposed for a violation that occurred more than 2 years before
11 the date the complaint was filed.

12 (2) If the commission finds, after notice and hearing, that
13 the **RATES**, quality, general availability, or conditions for ~~the~~ **A**
14 regulated service violate this act, ~~or~~ an order of the commission
15 under this act, or is adverse to the public interest, the
16 commission may require changes in how the telecommunication
17 services are provided. The commission's authority includes, but is
18 not limited to, the revocation of a license and issuing cease and
19 desist orders.

20 Sec. 210. (1) Except under the terms of a mandatory protective
21 order, trade secrets and commercial or financial information
22 submitted under this act are exempt from the freedom of information
23 act, ~~Act No. 442 of the Public Acts of 1976, being sections 15.231~~
24 ~~to 15.246 of the Michigan Compiled Laws~~ **1976 PA 442, MCL 15.231 TO**
25 **15.246.**

26 (2) If information is disclosed pursuant to a mandatory
27 protective order, then the information may be included in the

1 commission's evidentiary record if admissible, ~~and remains~~ **BUT**
2 **SHALL REMAIN** confidential.

3 (3) There is a rebuttable presumption that cost studies,
4 customer usage data, marketing studies, and contracts between
5 providers are trade secrets or commercial or financial information
6 protected under subsection (1). The burden of removing the
7 presumption under this subsection is with the party seeking to have
8 the information disclosed.

9 **SEC. 211A. A PROVIDER OF ANY TELECOMMUNICATION SERVICE**
10 **UTILIZING A NEW OR EMERGING TECHNOLOGY SHALL REGISTER WITH THE**
11 **COMMISSION. THE REGISTRATION SHALL INCLUDE ALL OF THE FOLLOWING**
12 **INFORMATION:**

13 (A) **THE NAME OF THE PROVIDER.**

14 (B) **A DESCRIPTION OF THE SERVICES PROVIDED.**

15 (C) **THE ADDRESS AND TELEPHONE NUMBER OF THE PROVIDER'S**
16 **PRINCIPAL OFFICE.**

17 (D) **THE ADDRESS AND TELEPHONE NUMBER OF THE PROVIDER'S**
18 **REGISTERED AGENT AUTHORIZED TO RECEIVE SERVICE IN THIS STATE.**

19 (E) **ANY OTHER INFORMATION THE COMMISSION CONSIDERS NECESSARY.**

20 Sec. 213. (1) Subject to section 201, the commission may
21 promulgate rules under the administrative procedures act of 1969,
22 1969 PA 306, MCL 24.201 to 24.328.

23 (2) ~~Effective September 1, 1996, the~~ **THE** following
24 administrative rules shall not apply to telecommunication providers
25 or telecommunication services:

26 (a) Electric power and communication lines: R 460.581 to R
27 460.592.

1 (b) Intrastate telephone services and facilities: R 460.1951
2 to R 460.1968.

3 (c) Filing procedures for communications common carriers
4 tariffs: R 460.2051 to R 460.2057.

5 (d) Consumer standards and billing practices, residential
6 telephone service: R 460.2211 to R 460.2279.

7 (e) Uniform systems of accounts for class A and class B
8 telephone companies: R 460.9041 and R 460.9059.

9 ~~— (3) Rules promulgated after January 1, 1996 under this act are~~
10 ~~considered to have been promulgated under the authority granted~~
11 ~~under subsection (1). R 484.453(5), 484.455(2), 484.455(3),~~
12 ~~484.457(3), and 484.458(4) of the Michigan administrative code may~~
13 ~~not be enforced until a court determines that the rules do not~~
14 ~~exceed the commission's authority under this act. It is the~~
15 ~~legislature's intent that providers voluntarily comply with the~~
16 ~~rules until a court makes a determination. A provider that~~
17 ~~voluntarily agrees to abide by the rules does not relinquish its~~
18 ~~rights to challenge the legality of the rules.~~

19 (3) ~~—(4)~~ A proceeding before the commission to promulgate
20 rules under this act shall be concluded within 180 days from the
21 date that the proceeding is initiated.

22 Sec. 214. (1) The commission shall issue orders that assign
23 the telephone digits 2-1-1 to community resource information and
24 referral answering points established under subsection (3) and
25 prescribe appropriate interconnection orders to carry out the
26 intent of this section.

27 (2) Each provider of basic local exchange service in this

1 state shall assign the telephone number 2-1-1 only to a community
2 resource information and referral answering point established under
3 subsection (3).

4 (3) The commission shall designate a community resource
5 information and referral entity to be the 2-1-1 answering point for
6 various geographical areas within this state. In making its
7 determination, the commission shall consider all of the following:

8 (a) The recommendations of ~~the Michigan alliance for~~
9 ~~information and referral systems~~ **2-1-1, INC.**

10 (b) Whether the relevant state-endorsed ~~multipurpose~~
11 **COMMUNITY** collaborative bodies are in agreement.

12 (c) Whether the entity has established a framework to assure
13 the provision of coverage of the 2-1-1 telephone number 24 hours
14 per day, 7 days per week.

15 (d) Whether the entity meets 2-1-1 standards adopted by the
16 Michigan alliance for information and referral systems.

17 (4) Each community resource information and referral entity
18 designated by the commission to be the 2-1-1 answering point for a
19 particular geographical area within the state shall establish the
20 framework to provide sufficient resources to operate the 2-1-1
21 telephone number 24 hours per day, 7 days per week.

22 (5) **NOT LATER THAN APRIL 1, 2006, THE COMMISSION SHALL**
23 **DESIGNATE AN ENTITY TO SERVE AS THE STATE 2-1-1 COORDINATING**
24 **AGENCY. THE DESIGNATED AGENCY SHALL ASSIST AND PROVIDE INFORMATION**
25 **AND RESOURCES IN IMPLEMENTING 2-1-1 SERVICE IN THIS STATE. THE**
26 **DESIGNATED AGENCY SHALL ALSO COORDINATE THE PROVIDING OF 2-1-1**
27 **SERVICES OF THE COMMUNITY RESOURCE INFORMATION AND REFERRAL**

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1 ENTITIES DESIGNATED UNDER SUBSECTION (3).

2 (6) BEFORE A STATE AGENCY OR LOCAL UNIT OF GOVERNMENT
3 IMPLEMENTS A COMMUNITY RESOURCE INFORMATION OR REFERRAL SERVICE,
4 THE STATE AGENCY OR LOCAL UNIT OF GOVERNMENT SHALL CONSULT WITH THE
5 STATE 2-1-1 COORDINATING AGENCY DESIGNATED BY THE COMMISSION UNDER
6 SUBSECTION (5).

7 (7) BY 2008, THE COMMISSION SHALL ISSUE ORDERS THAT ASSIGN THE
8 TELEPHONE DIGITS 2-1-1 TO A STATEWIDE CENTRAL ROUTING SYSTEM
9 CONNECTING REGIONAL COMMUNITY RESOURCE INFORMATION AND REFERRAL
10 ANSWERING POINTS ESTABLISHED UNDER SUBSECTION (3). EACH PROVIDER OF
11 BASIC LOCAL EXCHANGE SERVICE IN THE STATE WILL REASSIGN THE
12 TELEPHONE NUMBER 2-1-1 TO THE CENTRAL SYSTEM WITHOUT ADDITIONAL
13 CHARGE.

14 SEC. 252. (1) A PUBLIC ENTITY MAY PROVIDE TELECOMMUNICATION
15 SERVICES WITHIN ITS << >> BOUNDARIES IF THE PUBLIC ENTITY
16 HAS COMPLIED WITH THE REQUIREMENTS OF SECTION 14 OF THE
17 METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHT-OF-WAY OVERSIGHT
18 ACT, 2002 PA 48, MCL 484.3114, AND ALL OF THE FOLLOWING APPLY:

19 (A) THE PUBLIC ENTITY HAS ISSUED A REQUEST FOR COMPETITIVE
20 SEALED BIDS TO PROVIDE TELECOMMUNICATION SERVICES.

21 (B) THE PUBLIC ENTITY HAS RECEIVED LESS THAN [3] QUALIFIED BIDS
22 FROM PRIVATE PROVIDERS<<. >>

23 << >>

24 (C) IT IS MORE THAN 60 DAYS FROM THE DATE THE REQUEST FOR BIDS
25 WAS ISSUED.

26 (D) THE PUBLIC ENTITY IS PROVIDING THE TELECOMMUNICATION
27 SERVICES UNDER THE SAME TERMS AND CONDITIONS AS REQUIRED UNDER THE

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REQUEST FOR BIDS ISSUED PURSUANT TO SUBDIVISION (A).

[

(2) EXCEPT AS PROVIDED UNDER SUBSECTION <<(3)>>, A PUBLIC ENTITY SHALL NOT PROVIDE TELECOMMUNICATION SERVICES OUTSIDE ITS << >> BOUNDARIES.

[(3)] TWO OR MORE PUBLIC ENTITIES MAY JOINTLY REQUEST BIDS UNDER SUBSECTION (1) AND PROVIDE TELECOMMUNICATION SERVICES IF ALL PARTICIPATING PUBLIC ENTITIES MEET THE REQUIREMENTS OF THIS SECTION. IF A PUBLIC ENTITY DOES NOT RECEIVE A QUALIFIED BID AS REQUIRED UNDER SUBSECTION (1), THE PUBLIC ENTITY MAY CONTRACT WITH ANOTHER PUBLIC ENTITY TO RECEIVE TELECOMMUNICATION SERVICES.

[(4)] A PUBLIC ENTITY SHALL NOT ESTABLISH A BOARD OR OTHER ENTITY FOR THE PURPOSE OF PROVIDING REGULATION OF A PRIVATE PROVIDER OF SERVICES UNDER THIS SECTION.

[(5)] THIS SECTION DOES NOT APPLY TO ALL OF THE FOLLOWING:

(A) PUBLIC SAFETY SYSTEMS.

(B) SYSTEMS USED ONLY FOR THE INTERNAL USE OF THE PUBLIC ENTITY OR FOR THE SHARING OF INFORMATION BETWEEN THE PUBLIC ENTITY AND ANOTHER PUBLIC ENTITY.

[(C) A PUBLIC ENTITY THAT IS CURRENTLY PROVIDING TELECOMMUNICATION SERVICES OR THAT HAS HELD A PUBLIC HEARING BY NOVEMBER 1, 2005 ON A PROPOSAL TO PROVIDE TELECOMMUNICATION SERVICES, OR HAS ISSUED A REQUEST FOR BIDS BY NOVEMBER 1, 2005 TO PROVIDE TELECOMMUNICATION SERVICES, OR HAS AN ENFORCEABLE CONTRACT TO BEGIN CONSTRUCTION OF A TELECOMMUNICATION SYSTEM BY NOVEMBER 1, 2005.

(D) A PUBLIC ENTITY THAT IS CURRENTLY PROVIDING SERVICE IN ANOTHER PUBLIC ENTITY'S BOUNDARIES.

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(E)] SERVICES OFFERED BY A PUBLIC ENTITY TO THE PUBLIC WITHIN A FACILITY OWNED AND OPERATED BY THE PUBLIC ENTITY.

[(F) SYSTEMS OR SERVICES USED OR OFFERED BY 1 OR MORE PUBLIC ENTITIES OR CONSORTIUMS TO ADVANCE OR PROMOTE THE PUBLIC HEALTH, SAFETY, AND PROVISION OF E-GOVERNMENT SERVICES.

<<(6) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A MUNICIPALLY-OWNED UTILITY FROM PROVIDING TO ITS ENERGY CUSTOMERS, EITHER DIRECTLY OR INDIRECTLY, ANY ENERGY RELATED SERVICE INVOLVING THE TRANSFER OR RECEIPT OF INFORMATION OR DATA CONCERNING THE USE, MEASUREMENT, MONITORING, OR MANAGEMENT OF ENERGY SERVICES PROVIDED BY THE MUNICIPALLY-OWNED UTILITY, INCLUDING SERVICES SUCH AS LOAD MANAGEMENT OR AUTOMATED METER READING.>>

<<(7)>>] AS USED IN THIS SECTION, "PUBLIC ENTITY" MEANS A COUNTY, CITY, VILLAGE, TOWNSHIP, OR ANY AGENCY OR SUBDIVISION OF THE PUBLIC ENTITY.

Sec. 301. (1) A telecommunication provider shall not provide or resell basic local exchange service in this state, without a license issued from the commission ~~pursuant to~~ UNDER this act.

(2) Pending the determination of an application for a license, the commission without notice and hearing may issue a temporary license for a period not to exceed 1 year.

SEC. 301A. A PROVIDER LICENSED UNDER THIS ACT SHALL OFFER PRIMARY BASIC LOCAL EXCHANGE SERVICE TO EACH RESIDENTIAL CUSTOMER WITHIN THE PROVIDER'S SERVICE AREA WHERE THE PROVIDER IS OFFERING RESIDENTIAL BASIC LOCAL EXCHANGE SERVICE.

Sec. 302. (1) After notice and hearing, the commission shall approve an application for a license if the commission finds both of the following:

(a) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service ~~to all residential and commercial customers~~ within the geographic area of the license and that the applicant intends to provide service within 1 year from the date the license is granted.

(b) The granting of a license to the applicant would not be contrary to the public interest.

(2) The commission shall retain a copy of all granted licenses

1 and make all information contained in the licenses available to the
2 public.

3 (3) Each provider granted a license shall retain a copy of the
4 license at its principal place of business and make the license
5 available for review to the public.

6 Sec. 303. ~~(1) The commission may alter or amend the~~
7 ~~geographic area of a license, grant a competing license, or revoke~~
8 ~~a license of a provider if within 2 years from the date the license~~
9 ~~was granted the provider has not marketed its services to all~~
10 ~~potential customers or has refused to provide services to certain~~
11 ~~customers.~~

12 ~~—— (2) A telecommunication provider shall not provide basic local~~
13 ~~exchange service to customers or end users located within another~~
14 ~~telecommunication provider's licensed service area except through~~
15 ~~interconnection arrangements as provided by this act.~~

16 (1) ~~(3)~~ The sale or transfer of shares of stock of a
17 provider of **PRIMARY** basic local exchange service is not a sale or
18 transfer of a license or a discontinuance of service.

19 (2) ~~(4)~~ The commission has the authority to approve or deny
20 a proposed addition, elimination, or modification of an area code
21 in this state. The commission shall give public notice and shall
22 conduct a public hearing in the affected geographic area before an
23 addition, elimination, or modification of an area code is made in
24 this state.

25 ~~—— (5) To the extent that it is technically and economically~~
26 ~~feasible, the commission shall issue orders requiring the~~
27 ~~modification of all area code boundaries in this state to insure~~

1 ~~that they conform to county lines.~~

2 (3) A LICENSE ISSUED UNDER THIS ACT IS NOT TRANSFERABLE TO AN
3 UNLICENSED PROVIDER.

4 (4) IN CASE OF THE BANKRUPTCY OF A LICENSED PROVIDER, THE
5 COMMISSION SHALL ESTABLISH THE PROCEDURES FOR THE TRANSFER OF THE
6 LICENSE TO ANOTHER QUALIFIED PROVIDER.

7 Sec. 304. (1) ~~Except as provided in section 304a, the~~ THE
8 rates for PRIMARY basic local exchange service shall be just and
9 reasonable. EACH PROVIDER SHALL SET THE INITIAL RATES FOR PRIMARY
10 BASIC LOCAL EXCHANGE SERVICE TO BE EFFECTIVE NO LATER THAN APRIL 1,
11 2006. EXCEPT AS PROVIDED UNDER SECTION 310A OR A HIGHER RATE
12 APPROVED BY THE COMMISSION UNDER SUBSECTION (2)(D), THE INITIAL
13 RATES MAY NOT EXCEED THE RATES FOR THE LOWEST COST CALLING PLAN
14 THAT INCLUDES A LIMITED NUMBER OF OUTGOING CALLS OF THE PROVIDER IN
15 PLACE BEFORE THE RATES ARE SET UNDER THIS SUBSECTION. IF A PROVIDER
16 DOES NOT OFFER A CALLING PLAN WITH A LIMITED NUMBER OF OUTGOING
17 CALLS, THE PROVIDER SHALL SET THE INITIAL RATE FOR PRIMARY BASIC
18 LOCAL EXCHANGE SERVICE WHICH SHALL BE JUST AND REASONABLE AND MAY
19 BE SUBJECT TO COMMISSION REVIEW.

20 (2) A provider may alter its rates for PRIMARY basic local
21 exchange services by 1 or more of the following:

22 (a) Filing with the commission notice of a ~~decrease,~~
23 ~~discount, or other rate~~ reduction in a PRIMARY basic local
24 exchange rate. A rate alteration under this subdivision shall
25 become effective without commission review or approval.

26 (B) FILING WITH THE COMMISSION A NOTICE OF AN INCREASE IN A
27 PRIMARY BASIC LOCAL EXCHANGE RATE TO A LEVEL NOT TO EXCEED THE RATE

1 ESTABLISHED UNDER SUBSECTION (1) OR SUBDIVISIONS (C) AND (D). A
 2 RATE ALTERATION UNDER THIS SUBDIVISION IS EFFECTIVE WITHOUT
 3 COMMISSION REVIEW OR APPROVAL.

4 (C) ~~—(b)—~~ Filing with the commission notice of an increase in
 5 a basic local exchange rate that does not exceed 1% less than the
 6 consumer price index. Unless the commission determines that the
 7 rate alteration exceeds the allowed increase under this
 8 subdivision, the rate alteration shall take effect 90days from the
 9 date of the notice required under subsection (3). As used in this
 10 subdivision, "consumer price index" means the most recent reported
 11 annual average percentage increase in the Detroit consumer price
 12 index for all items for the prior 12-month period by the United
 13 States department of labor.

14 (D) ~~—(e)—~~ Filing with the commission an application to
 15 increase a **PRIMARY** basic local exchange rate in an amount greater
 16 than that allowed under ~~—subdivision (b)—~~ **SUBSECTION (1) OR**
 17 **SUBDIVISION (C)**. The application shall be accompanied with
 18 sufficient documentary support that the rate alteration is just and
 19 reasonable. The commission shall make a determination within the
 20 90-day period provided for in subsection (5) of 1 of the following:

21 (i) That the rate alteration is just and reasonable.

22 (ii) That a filing under section 203 is necessary to review the
 23 rate alteration.

24 (3) Notice to customers of a rate alteration is required for a
 25 rate alteration under subsection ~~—(2)(b) or (c) and section 304a~~
 26 **(2) (C) OR (D)** and shall be included in or on the bill of each
 27 affected customer of the provider **AT LEAST 1 BILLING CYCLE** before

1 the effective date of the rate alteration.

2 (4) The notice required under subsection (3) shall contain at
3 least all of the following information:

4 (a) A statement that the customer's rate may change.

5 (b) An estimate of the amount of the annual change for the
6 typical residential customer that would result by the rate change.

7 (c) A statement that a customer may comment on or receive
8 complete details of the rate alteration by calling or writing the
9 commission. The statement shall also include the telephone number
10 and address of the commission. Complete details of the rate
11 alteration shall be provided free of charge to the customer at the
12 expense of the provider.

13 (5) Except as otherwise provided in subsections (2) and (6),
14 an altered **PRIMARY** basic local exchange rate shall take effect 90
15 days from the date of the notice required by subsection (3).

16 (6) Upon receiving a complaint or pursuant to a determination
17 under subsection ~~—(2)(e)—~~ **(2) (D)**, the commission may require a
18 filing under section 203 to review a proposed rate alteration under
19 subsection ~~—(2)(e)—~~ **(2) (D)**. The commission's final order may
20 approve, modify, or reject the rate alteration.

21 (7) In reviewing a rate alteration under subsection (6), the
22 commission shall consider only 1 or more of the following factors
23 if relevant to the rate alteration as specified by the provider:

24 (a) Total service long run incremental cost of basic local
25 exchange services.

26 (b) Comparison of the proposed rate to the rates charged by
27 other providers in this state for the same service.

1 (c) Whether a new function, feature, or capability is being
2 offered as a component of basic local exchange service.

3 (d) Whether there has been an increase in the costs to provide
4 basic local exchange service in the geographic area of the proposed
5 rate.

6 (e) Whether the provider's further investment in the network
7 infrastructure of the geographic area of the proposed rate is
8 economically justifiable without the proposed rate.

9 (8) A provider shall be allowed only 1 rate increase for each
10 ~~class or type of~~ **REGULATED** service during any 12-month period.

11 ~~—— (9) A provider shall not make a rate alteration under this~~
12 ~~section until the rate has been restructured under section 304a.~~

13 ~~—— (10) The commission shall exempt a provider from this section~~
14 ~~and section 310(2) if it finds all of the following:~~

15 ~~—— (a) The provider provides basic local exchange service or~~
16 ~~basic local exchange and toll service to less than 250,000 end-~~
17 ~~users in this state.~~

18 ~~—— (b) The provider offers to end users single party basic local~~
19 ~~exchange service, tone dialing, toll access service, including end-~~
20 ~~user common line services and dialing parity at a total price of no~~
21 ~~higher than the amount charged as of May 1, 2000.~~

22 ~~—— (c) The provider provides dialing parity access to operator,~~
23 ~~telecommunication relay, and emergency services to all basic local~~
24 ~~exchange end users.~~

25 (9) ~~—(11)—~~ A call made to a local calling area adjacent to the
26 caller's local calling area shall be considered a local call and
27 shall be billed as a local call. **EFFECTIVE DECEMBER 31, 2007, A**

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1 CALL MADE TO A CALLED PARTY WHO IS NOT LOCATED WITHIN THE
2 GEOGRAPHIC AREA OF THE CALLER'S LOCAL CALLING AREA OR AN ADJACENT
3 LOCAL CALLING AREA AS DEFINED BY THE COMMISSION'S ORDER IN CASE
4 NUMBERS U-12515 AND U-12528, DATED FEBRUARY 5, 2001, IS NOT A LOCAL
5 CALL IF THE TARIFF OF THE PROVIDER ORIGINATING THE CALL DOES NOT
6 CLASSIFY THE CALL AS A LOCAL CALL. <<THE COMMISSION SHALL CONVENE A
WORKGROUP OF INTERESTED PARTIES FOR THE PURPOSE OF RESOLVING ISSUES
SURROUNDING VIRTUAL NXX. VIRTUAL NXX IS THE ASSIGNMENT OF A TELEPHONE
NUMBER TO CUSTOMERS WHO ARE NOT PHYSICALLY LOCATED IN THE EXCHANGE TO
WHICH THE NXX IS ASSIGNED. THE WORKGROUP SHALL CONSIDER THE UTILIZATION
OF VIRTUAL NXX SERVICES TO TRANSPORT INTEREXCHANGE TRAFFIC AND THE
ASSOCIATED INTER-CARRIER COMPENSATION. PRIOR TO JULY 1, 2006, THE
COMMISSION SHALL SUBMIT A REPORT TO THE GOVERNOR AND THE HOUSE AND SENATE
STANDING COMMITTEES WITH OVERSIGHT OF TELECOMMUNICATION ISSUES ON THE
PROGRESS OF WORKGROUP DISCUSSIONS. THE REPORT SHALL INCLUDE A COMMISSION
POLICY STATEMENT RELATING TO THE PROVISION OF VIRTUAL NXX SERVICES, AND
RECOMMENDATIONS FOR LEGISLATION, IF ANY.>>

7 (10) A PROVIDER NOT IN COMPLIANCE WITH SUBSECTION (9), OR NOT
8 ALREADY THE SUBJECT OF A COMMISSION ORDER ON ADJACENT LOCAL
9 CALLING, SHALL SUBMIT TO THE COMMISSION AN ADJACENT LOCAL CALLING
10 PLAN TO IMPLEMENT SUBSECTION (9) NO LATER THAN OCTOBER 1, 2006. IN
11 REVIEWING THE PLAN, THE COMMISSION SHALL GIVE CONSIDERATION TO THE
12 REVENUES LOST AND ADDITIONAL COST INCURRED BY THE PROVIDER IN
13 IMPLEMENTING THE PLAN AND SHALL APPROVE OR MODIFY THE PLAN OR FIND
14 THAT THE PLAN IS NOT REQUIRED BECAUSE A COST BENEFIT ANALYSIS
15 DEMONSTRATES THAT THE PLAN IS NOT IN THE BEST INTEREST OF THE
16 CUSTOMERS.

17 (11) AN ALTERATION BY A PROVIDER TO THE RATE OF A PACKAGE,
18 COMBINATION, OR BUNDLE OF TELECOMMUNICATION OR OTHER SERVICES WHICH
19 INCLUDES PRIMARY BASIC LOCAL EXCHANGE SERVICE IS NOT SUBJECT TO
20 THIS SECTION AS LONG AS THE PRIMARY BASIC LOCAL EXCHANGE SERVICE
21 COMPONENT OF THE PACKAGE, COMBINATION, OR BUNDLE IS AVAILABLE FOR
22 PURCHASE ON A STAND-ALONE BASIS.

23 (12) A PROVIDER SHALL OFFER ITS UNREGULATED CALLING FEATURES
24 ON A STAND-ALONE BASIS TO ITS PRIMARY BASIC LOCAL EXCHANGE SERVICE
25 CUSTOMERS. THE PURCHASE OF A CALLING FEATURE UNDER THIS SUBSECTION
26 SHALL NOT AFFECT THE REGULATED RATE OF THE PRIMARY BASIC LOCAL
27 EXCHANGE SERVICE.

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1 (13) A PERSON WITH DISABILITIES OR WHO IS VOLUNTARILY
2 PROVIDING A SERVICE FOR AN ORGANIZATION CLASSIFIED BY THE INTERNAL
3 REVENUE SERVICE AS A SECTION 501(C)(3) OR (19) ORGANIZATION, OR <<A
4 PERSON WHO PROVIDES A SERVICE FOR>> A
5 CONGRESSIONALLY CHARTERED VETERANS ORGANIZATION OR THEIR DULY
6 AUTHORIZED FOUNDATIONS, IS EXEMPT FROM THE 100 CALLS PER MONTH
7 LIMITATION AND SHALL RECEIVE A FLAT RATE ALLOWING UNLIMITED CALLS
8 PER MONTH. A PERSON EXEMPT FROM THE CALL CAP UNDER THIS SUBSECTION
9 SHALL NOT BE CHARGED A RATE GREATER THAN THE FLAT RATE CHARGED
10 RESIDENTIAL CUSTOMERS FOR PRIMARY BASIC LOCAL EXCHANGE SERVICE.

11 (14) EXCEPT AS PROVIDED IN SUBSECTION (15), FOR THE PURPOSES
12 OF THIS SECTION AND THE ACT, PROVIDERS WHO, TOGETHER WITH ANY
13 AFFILIATED PROVIDERS, PROVIDE BASIC LOCAL EXCHANGE SERVICE OR BASIC
14 LOCAL EXCHANGE AND TOLL SERVICE TO LESS THAN 250,000 END-USERS IN
15 THIS STATE MAY DETERMINE TOTAL SERVICE LONG RUN INCREMENTAL COST
16 THROUGH PREPARATION OF A COST STUDY OR MAY DETERMINE THAT THEIR
17 TOTAL SERVICE LONG RUN INCREMENTAL COST IS THE SAME AS THAT OF A
18 PROVIDER WITH MORE THAN 250,000 END-USERS.

19 (15) A PROVIDER OF BASIC LOCAL EXCHANGE SERVICE WITH LESS THAN
20 15,000 END-USERS IN THIS STATE MAY DETERMINE THAT THEIR TOTAL
21 SERVICE LONG RUN INCREMENTAL COST IS THE SAME AS THAT OF A PROVIDER
22 WITH MORE THAN 250,000 END-USERS.

<<(16) A PROVIDER SHALL FILE WITH THE COMMISSION FOR REVIEW AND
APPROVAL A TARIFF FOR THE RATES AND CHARGES FOR CALLS MADE THAT EXCEED
THE 100-CALL LIMIT OF PRIMARY BASIC LOCAL EXCHANGE SERVICE.>>

22 Sec. 305. ~~—(1)—~~ A provider of basic local exchange service
23 shall not do any of the following:

24 (a) Discriminate against another provider by refusing or
25 delaying access service to the local exchange.

26 (b) Refuse or delay interconnections or provide inferior
27 connections to another provider.

1 (c) Degrade the quality of access service provided to another
2 provider.

3 (d) Impair the speed, quality, or efficiency of lines used by
4 another provider.

5 (e) Develop new services to take advantage of planned but not
6 publicly known changes in the underlying network.

7 (f) Refuse or delay a request of another provider for
8 information regarding the technical design, equipment capabilities
9 and features, geographic coverage, and traffic patterns of the
10 local exchange network.

11 (g) Refuse or delay access service or be unreasonable in
12 connecting another provider to the local exchange whose product or
13 service requires novel or specialized access service requirements.

14 (h) Upon a request, fail to fully disclose in a timely manner
15 all available information necessary for the design of equipment
16 that will meet the specifications of the local exchange network.

17 (i) Discriminate against any provider or any party who
18 requests the information for commercial purposes in the
19 dissemination of customer proprietary information. A provider shall
20 provide without unreasonable discrimination or delay telephone
21 directory listing information and related services to persons
22 purchasing telephone directory listing information to the same
23 extent and in the same quality as provided to the provider,
24 affiliates of the provider, or any other listing information
25 purchaser.

26 (j) Refuse or delay access service by any person to another
27 provider.

1 (k) Sell, lease, or otherwise transfer an asset to an
2 affiliate for an amount less than the fair market value of the
3 asset.

4 (l) Buy, lease, or otherwise acquire an asset from an affiliate
5 of the provider for an amount greater than the fair market value of
6 the asset.

7 (m) Bundle unwanted services or products for sale or lease to
8 another provider.

9 (n) Perform any act that has been prohibited by this act or an
10 order of the commission.

11 (o) Sell services or products, extend credit, or offer other
12 terms and conditions on more favorable terms to an affiliate of the
13 provider than the provider offers to other providers.

14 (p) Discriminate in favor of an affiliated burglar and fire
15 alarm service over a similar service offered by another provider.

16 ~~—— (2) A provider of cellular telecommunication services shall~~
17 ~~not do either of the following:~~

18 ~~—— (a) Unreasonably provide services, extend credit, or offer~~
19 ~~other terms and conditions on more favorable terms to an affiliate~~
20 ~~of the provider or to its retail department that sells to end users~~
21 ~~than the provider offers to other providers.~~

22 ~~—— (b) Unreasonably use rates or proceeds from providers,~~
23 ~~directly or indirectly, to subsidize or offset the costs of~~
24 ~~cellular service offered by the provider, or an affiliate of the~~
25 ~~provider, to other providers or to end users.~~

26 ~~—— (3) Until a provider has complied with section 304a, the~~
27 ~~provider of a rate regulated service shall not provide that service~~

1 ~~in combination with an unregulated service in section 401 or an~~
2 ~~unbundled or resold service under section 357 at a price that does~~
3 ~~not exceed the total service long run incremental cost of each~~
4 ~~service.~~

5 SEC. 305A. (1) EXCEPT AS OTHERWISE PROVIDED BY FEDERAL LAW,
6 WHERE TECHNICALLY FEASIBLE, A PROVIDER ORIGINATING OR FORWARDING AN
7 INTRASTATE CALL THAT IS TERMINATED ON THE NETWORK OF ANOTHER
8 PROVIDER SHALL DO ALL OF THE FOLLOWING:

9 (A) FOR ORIGINATED CALLS, TRANSMIT THE TELEPHONE NUMBER OF THE
10 PARTY ORIGINATING THE CALL. THE TELEPHONE NUMBER SHALL BE
11 TRANSMITTED WITHOUT ALTERATION IN THE NETWORK SIGNALING
12 INFORMATION.

13 (B) FOR FORWARDED CALLS, TRANSMIT THE TELEPHONE NUMBER OF THE
14 PARTY ORIGINATING THE CALL TO THE EXTENT SUCH INFORMATION HAS BEEN
15 PROVIDED BY THE ORIGINATING CARRIER. THE TELEPHONE NUMBER SHALL BE
16 TRANSMITTED WITHOUT ALTERATION IN THE NETWORK SIGNALING
17 INFORMATION.

18 (2) THE COMMISSION MAY INVESTIGATE COMPLAINTS ALLEGING
19 VIOLATIONS OF THIS SECTION AND MAY INITIATE PROCEEDINGS UNDER
20 SECTION 203 TO RESOLVE DISPUTES BETWEEN PROVIDERS REGARDING
21 IDENTIFICATION OF TRAFFIC AND DISPUTES REGARDING COMPENSATION
22 RIGHTS AND OBLIGATIONS BETWEEN PROVIDERS WHO ORIGINATE, FORWARD, OR
23 TERMINATE INTRASTATE TRAFFIC.

24 (3) IF THE COMMISSION DETERMINES THAT THE TELEPHONE NUMBER HAS
25 NOT BEEN TRANSMITTED AS REQUIRED BY THIS SECTION, THE PROVIDER
26 AGAINST WHOM THE COMPLAINT WAS FILED SHALL DEMONSTRATE THAT IT WAS
27 NOT TECHNICALLY FEASIBLE TO TRANSMIT THE INFORMATION, OR THAT IT

1 HAD A LEGITIMATE BUSINESS OR OTHER GOOD FAITH REASON FOR NOT
2 TRANSMITTING THE TELEPHONE NUMBER.

3 (4) IF THE COMMISSION DETERMINES THAT A PROVIDER VIOLATED THIS
4 SECTION, THE COMMISSION SHALL DETERMINE IF THE VIOLATION RESULTED
5 IN A NONPAYMENT OR UNDERPAYMENT OF COMPENSATION TO THE COMPLAINING
6 PROVIDER UNDER THE TERMS OF THE PARTIES' COMPENSATION AGREEMENT OR
7 ITS INTRASTATE ACCESS TARIFF. THE COMMISSION SHALL DETERMINE THE
8 AMOUNT OF THE NONPAYMENT OR UNDERPAYMENT AND ORDER THE VIOLATING
9 PROVIDER TO MAKE PAYMENT. THE COMMISSION MAY ASSESS A FINE AGAINST
10 THE VIOLATING PROVIDER IN AN AMOUNT EQUAL TO 2 TIMES THE PAYMENT
11 AMOUNT, OR MAY TAKE ANY OTHER ACTION AUTHORIZED BY MICHIGAN LAW
12 THAT IT CONSIDERS NECESSARY.

13 (5) A PROVIDER THAT ORIGINATES AN INTRASTATE CALL SUBJECT TO
14 SECTION 251(B)(5) OF THE TELECOMMUNICATIONS ACT OF 1996, 47 USC
15 251, SHALL AGREE TO ESTABLISH A RECIPROCAL COMPENSATION ARRANGEMENT
16 FOR THE TERMINATION OF THOSE CALLS. ORIGINATING AND TERMINATING
17 PROVIDERS SHALL AGREE TO BEGIN NEGOTIATIONS NO MORE THAN 30 DAYS
18 AFTER THE ORIGINATING PROVIDER RECEIVES A REQUEST FROM A
19 TERMINATING PROVIDER TO ESTABLISH AN ARRANGEMENT. DURING THE
20 NEGOTIATION PERIOD, RECIPROCAL COMPENSATION RATES SHALL BE ASSESSED
21 BY THE TERMINATING CARRIER UNDER AN INTERIM ARRANGEMENT WITH THE
22 ORIGINATING CARRIER. ORIGINATING AND TERMINATING PROVIDERS SHALL
23 USE GOOD FAITH EFFORTS TO CONCLUDE NEGOTIATIONS AND FINALIZE AN
24 AGREEMENT WITHIN A REASONABLE TIME PERIOD.

25 (6) A PROVIDER THAT ORIGINATES AN INTRASTATE INTRA-LATA CALL
26 SUBJECT TO A TERMINATING CARRIER'S INTRASTATE ACCESS TARIFFS SHALL
27 PAY THE TARIFFED RATE FOR TERMINATION OF THE CALL.

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(7) THE COMMISSION MAY RESOLVE DISPUTES UNDER THIS SECTION BETWEEN ORIGINATING AND TERMINATING PROVIDERS RELATED TO NEGOTIATION OF THE RECIPROCAL COMPENSATION AGREEMENT AND THE PAYMENT OF THE TARIFFED RATES.

SEC. 305B. A PROVIDER OF ANY TELECOMMUNICATION SERVICE SHALL DO ALL OF THE FOLLOWING:

(A) PRIOR TO THE CUSTOMER PURCHASING THE SERVICE OR UPON REQUEST, PROVIDE EACH CUSTOMER A CLEAR AND SIMPLE EXPLANATION OF THE TERMS AND CONDITIONS OF THE SERVICES PURCHASED BY THE CUSTOMER INCLUDING, BUT NOT LIMITED TO, A STATEMENT OF ALL FEES, CHARGES, AND TAXES THAT WILL BE INCLUDED IN THE CUSTOMER'S MONTHLY BILL.

(B) THE STATEMENT REQUIRED UNDER SUBDIVISION (A) << >> SHALL INCLUDE A GOOD FAITH ESTIMATE BY THE PROVIDER OF THE ACTUAL MONTHLY COST THAT THE CUSTOMER WILL BE REQUIRED TO PAY IF THE SERVICE IS PURCHASED.

(C) COMPLY WITH ALL FEDERAL AND STATE REQUIREMENTS REGARDING TRUTH IN BILLING, E 9-1-1 SERVICES, AND PRIMARY BASIC LOCAL EXCHANGE SERVICE.

(D) IF E 9-1-1 SERVICE IS NOT AVAILABLE TO THE CUSTOMER, ENSURE THAT THE CUSTOMER HAS AN ALTERNATIVE MEANS TO REACH EMERGENCY SERVICE RESPONDERS.

(E) COMPLY WITH SECTIONS 505 AND 507.

Sec. 306. ~~Except as provided in section 312b, a~~ A telecommunication provider of basic local exchange service is not required to provide toll services. If a telecommunication provider that provides basic local exchange service does not offer toll or have interconnection with a toll provider, the commission shall

1 order a toll provider to interconnect with the telecommunication
2 provider upon terms that are fair to both providers.

3 Sec. 307. (1) Educational institutions shall have the
4 authority to own, construct, and operate a telecommunication system
5 or to purchase telecommunication services or facilities from an
6 entity capable of providing the service or facility.

7 (2) Educational institutions that provide telecommunication
8 services offered in subsection (3) shall not be subject to
9 regulation under this act or by any other governmental unit.

10 (3) ~~Except as provided in subsection (6), educational~~
11 **EDUCATIONAL** institutions may only sell telecommunication services
12 required for, or useful in, the instruction and training, including
13 worker training, of students and other people utilizing the
14 institution's educational services, the conducting of research, or
15 the operation of the institution. The services shall not be
16 considered basic local exchange services as long as they are used
17 for the instruction and training of students and other people
18 utilizing the institution's education services, the conducting of
19 research, or the operation of the institution. Educational
20 institutions may initiate and maintain cooperative arrangements
21 with telecommunication providers without the institutions being
22 subject to this act.

23 (4) Upon the request of an educational institution,
24 telecommunication providers may provide to an educational
25 institution services for the transmission of interactive data,
26 voice and video communications between the institution's facilities
27 or to the homes of students or employees of the institution,

1 regardless of whether the exchanges are in the same or different
2 LATAs.

3 (5) The rates for services provided to an educational
4 institution by a provider under this section shall be determined by
5 an open bid process.

6 (6) Except for a state institution of higher education, if an
7 educational institution has excess capacity, it may sell the excess
8 capacity subject to subsection (3) and to ~~both~~ **ALL** of the
9 following:

10 (a) The amount of capacity sold shall not exceed 25% of the
11 institution's total capacity.

12 (b) The capacity shall not be sold below the total service
13 long run incremental cost of the provider of basic local exchange
14 service in the service area of the educational institution. If
15 there is more than 1 provider in the service area, the educational
16 institution shall use the lowest total service long run incremental
17 cost.

18 **(C) THE EDUCATIONAL INSTITUTION HAS HELD NOT LESS THAN 1**
19 **PUBLIC HEARING ON THE PROPOSED PLAN TO SELL THE EXCESS CAPACITY.**
20 **THE EDUCATIONAL INSTITUTION SHALL GIVE NOTICE OF THE TIME AND PLACE**
21 **OF THE PUBLIC HEARING NOT LESS THAN 15 DAYS BEFORE THE HEARING BY 1**
22 **PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE GEOGRAPHIC**
23 **AREA IN WHICH THE EXCESS CAPACITY IS TO BE SOLD. NOTICE SHALL ALSO**
24 **BE PROVIDED ON THE EDUCATIONAL INSTITUTION'S WEBSITE.**

25 Sec. 309. (1) A provider of basic local exchange service shall
26 provide to each customer local directory assistance and, at no
27 additional charge to the customer, an annual printed telephone

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1 directory.

2 ~~—— (2) A provider of interzone service, as defined in tariffs on~~
3 ~~file with the commission on December 31, 1991, shall continue to~~
4 ~~provide the service pursuant to the terms of the tariffs. A~~
5 ~~provider may alter interzone service rates pursuant to provisions~~
6 ~~of section 304.~~

7 (2) ~~—(3)—~~ A provider of basic local exchange service shall
8 provide each customer at no additional charge the option of having
9 access to 900 prefix services blocked through the customer's
10 exchange service.

11 [

12]

13 Sec. 309a. ~~—(1)—~~ A provider of telecommunication service,
14 including, basic local exchange service, may provide cable service
15 if the provider has received a franchise agreement from the local
16 unit of government to provide cable service.

17 ~~—— (2) If a new provider of cable service seeks to offer the~~
18 ~~service in an area that has an incumbent provider of cable service~~
19 ~~operating under a franchise agreement, in negotiating a franchise~~
20 ~~agreement during the term of a franchise agreement entered into~~
21 ~~prior to July 1, 1995, the local government unit may consider terms~~
22 ~~and conditions of the franchise agreement of the incumbent~~
23 ~~provider, existing cable franchise fees, development of new~~
24 ~~services, the state of technology, and other factors.~~

25 Sec. 310. (1) Except as provided by this ~~act~~ **SECTION**, the
26 commission shall not review or set the rates for toll access
27 services.

1 (2) ~~Except as otherwise provided under subsection (7), a~~ **A**
2 provider of toll access services shall set the rates for toll
3 access services. Access service rates and charges set by a provider
4 that **DO NOT** exceed the rates allowed for the same interstate
5 services by the federal government are ~~not~~ just and reasonable.
6 ~~In no event may end user or subscriber line charges exceed the~~
7 ~~rates allowed for the same interstate services by the federal~~
8 ~~government as of May 1, 2000.~~ Providers may agree to a rate that
9 is less than the rate allowed by the federal government. ~~If the~~
10 ~~providers cannot agree on a rate, a provider may apply to the~~
11 ~~commission under section 204.~~

12 (3) Two or more providers that each have less than 250,000
13 access lines may agree to joint toll access service rates and
14 pooling of intrastate toll access service revenues.

15 (4) A provider of toll access services shall make available
16 for intrastate access services any technical interconnection
17 arrangements, including colocation required by the federal
18 government for the identical interstate access services.

19 (5) A provider of toll access service, whether under tariff or
20 contract, shall offer the services under the same rates, terms and
21 conditions, without unreasonable discrimination, to all providers.
22 All pricing of special toll access services and switched access
23 services, including volume discounts, shall be offered to all
24 providers under the same rates, terms, and conditions. ~~Until~~
25 ~~allowed by the federal communications commission, volume discounts~~
26 ~~on switched access are prohibited under this subsection.~~

27 (6) If a toll access service rate is reduced, then the

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1 provider receiving the reduced rate shall reduce its rate to its
2 customers by an equal amount. The commission shall investigate and
3 ensure that the provider has complied with this subsection.

4 ~~—— (7) A provider of basic local exchange service shall not~~
5 ~~assess or impose on end users an intrastate subscriber line charge~~
6 ~~or end user line charge.~~

7 (7) ~~—(8)—~~ This section shall not apply to basic local exchange
8 providers that have 250,000 or fewer customers in this state.

9 SEC. 310A. (1) AFTER <<JUNE>> 1, 2007, ALL PROVIDERS OF
10 TELECOMMUNICATION SERVICES IN THIS STATE SHALL NOT CHARGE, ASSESS,
11 OR IMPOSE ON END-USERS AN INTRASTATE SUBSCRIBER LINE CHARGE OR END-
12 USER LINE CHARGE.

13 (2) IF A PROVIDER IS CHARGING, ASSESSING, OR IMPOSING AN
14 INTRASTATE SUBSCRIBER LINE CHARGE OR END-USER LINE CHARGE ON JULY
15 1, 2005, THE PROVIDER MAY NO LATER THAN <<JUNE>> 1, 2007 FILE WITH
16 THE COMMISSION UNDER SECTION 304(2)(D) NOTICE OF AN INCREASE IN THE
17 <<PRIMARY>>
18 BASIC LOCAL EXCHANGE RATE IN AN AMOUNT NOT TO EXCEED THE PROVIDER'S
19 INTRASTATE SUBSCRIBER LINE CHARGE OR END-USER LINE CHARGE IN EFFECT
20 ON JULY 1, 2005. <<

>>

21 Sec. 312. (1) ~~Except as provided by this act, the~~ THE
22 commission shall not review or set the rates for toll service.

23 ~~—— (2) A provider of toll service may charge the same rate for~~
24 ~~the service on its routes of similar distance.~~

25 (2) ~~—(3)—~~ The commission shall require that toll service is
26 universally available to all persons within the state.

27 (3) ~~—(4)—~~ Upon commission review and approval, all providers

1 of toll service shall make available to their customers adjacent
2 exchange toll calling plans. All providers of toll service shall
3 inform their customers of the available plans **THAT PROVIDE A**
4 **MONTHLY ALLOWANCE OF TOLL CALLING TO ADJACENT EXCHANGES FOR WHICH**
5 **THERE IS NO LOCAL CALLING.** All providers of toll service shall
6 inform their customers of the available plans. The plans **REQUIRED**
7 **UNDER THIS SUBSECTION** shall remain in effect under this act until
8 altered by order of the commission. ~~A provider of toll service~~
9 ~~shall implement an optional discount plan for calling to exchanges~~
10 ~~within 20 miles of a customer's home exchange. The plan shall not~~
11 ~~violate the conditions delineated in the commission's order in case~~
12 ~~number U 9153, dated September 26, 1989.~~

13 ~~—— (5) Except as otherwise approved by the commission, a provider~~
14 ~~shall not charge a mandatory minimum monthly or mandatory flat rate~~
15 ~~charge for toll calls except in connection with an optional~~
16 ~~discount toll calling plan.~~

17 Sec. 314a. (1) Except as otherwise provided by this section, a
18 telecommunication provider shall not discontinue basic local
19 exchange telecommunication service to the residence of a qualifying
20 customer who has made a filing under this section. **A CUSTOMER**
21 **MAKING A FILING UNDER THIS SECTION SHALL RETAIN THE TELEPHONE**
22 **NUMBER ASSIGNED TO THE CUSTOMER ON THE DATE OF THE FILING.**

23 (2) A qualifying customer may apply for shut-off protection
24 for telecommunication service under this section by notifying the
25 provider that the qualifying customer is in need of assistance
26 caused by a reduction in household income through a call to active
27 duty status in the military.

1 (3) A provider of service may request verification of the call
2 to active duty status from the qualifying customer. A provider of
3 service may also request verification of the qualified customer's
4 reduction in household income.

5 (4) A provider of service may require restrictions or
6 elimination of calling features or toll service as a condition of
7 granting a qualifying customer's request for shut-off protection
8 under this section.

9 (5) A qualifying customer may receive shut-off protection from
10 the provider of service under this section for up to 90 days. Upon
11 application to the provider, the provider may grant the qualifying
12 customer 1 or more extensions.

13 (6) A qualifying customer receiving assistance under this
14 section shall notify the provider of the end of the call to active
15 duty status as soon as that status is known.

16 (7) Unless waived by the provider, the shut-off protection
17 provided under this section does not void or limit the obligation
18 of the qualifying customer to pay for telecommunication services
19 received during the time of assistance.

20 (8) Within 48 hours of receiving all information requested of
21 the qualifying customer, a provider shall do all of the following:

22 (a) Create a repayment plan requiring minimum monthly payments
23 that allows the qualifying customer to pay any past due amounts
24 over a reasonable time period not to exceed 1 year.

25 (b) Provide a qualifying customer with information regarding
26 any governmental, provider, or other assistance programs.

27 (9) This section does not affect or amend any commission rules

1 or orders pertaining to billing standards. If the terms and
2 conditions arranged by the provider with the qualifying customer
3 under subsection (8) are not followed by the customer, then the
4 provider shall follow procedures as set forth in the commission's
5 billing standards for basic residential telecommunication service.

6 (10) As used in this section, "qualifying customer" means all
7 of the following:

8 (a) A residential household where the income is reduced
9 because the customer of record, or the spouse of the customer of
10 record, is called to active military service by the president of
11 the United States or the governor of this state during a time of
12 declared national or state emergency or war.

13 (b) Assistance is needed by the residential household to
14 maintain telecommunication service.

15 (c) The residential household notifies the provider of the
16 need for assistance and provides verification of the call to active
17 duty status.

18 <<

19 SEC. 314B. (1) EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, A
TELECOMMUNICATION PROVIDER SHALL NOT DISCONTINUE BASIC LOCAL EXCHANGE
TELECOMMUNICATION SERVICE TO A RESIDENCE OF A PERSON WHO IS CERTIFIED AS
DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED BY A LICENSED PHYSICIAN,
LICENSED AUDIOLOGIST, OR QUALIFIED STATE AGENCY, WHO HAS MADE A FILING
UNDER THIS SECTION.

(2) A DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER MAY
APPLY FOR SHUT-OFF PROTECTION FOR TELECOMMUNICATION SERVICES UNDER THIS
SECTION BY NOTIFYING THE PROVIDER THAT THE DEAF OR HARD OF HEARING, OR
SPEECH-IMPAIRED CUSTOMER IS IN NEED OF ASSISTANCE CAUSED BY A REDUCTION
IN HOUSEHOLD INCOME.

(3) A PROVIDER OF SERVICE MAY REQUEST VERIFICATION OF THE REDUCTION
IN HOUSEHOLD INCOME FROM THE DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED
CUSTOMER.

(4) A PROVIDER OF SERVICE MAY REQUIRE RESTRICTIONS OR ELIMINATION
OF CALLING FEATURES OR TOLL SERVICE AS A CONDITION OF GRANTING A DEAF OR
HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER'S REQUEST FOR SHUT-OFF
PROTECTION UNDER THIS SECTION. THE PROVIDER SHALL NOT RESTRICT THE DEAF

OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER'S ACCESS TO A TELECOMMUNICATION RELAY SERVICE REQUIRED UNDER SECTION 315.

(5) A DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER MAY RECEIVE SHUT-OFF PROTECTION FROM THE PROVIDER OF SERVICE UNDER THIS SECTION FOR UP TO 90 DAYS. UPON APPLICATION TO THE PROVIDER, THE PROVIDER MAY GRANT THE QUALIFYING CUSTOMER 1 OR MORE EXTENSIONS.

(6) UNLESS WAIVED BY THE PROVIDER, THE SHUT-OFF PROTECTION PROVIDED UNDER THIS SECTION DOES NOT VOID OR LIMIT THE OBLIGATION OF THE QUALIFYING CUSTOMER TO PAY FOR TELECOMMUNICATION SERVICES RECEIVED DURING THE TIME OF ASSISTANCE.

(7) WITHIN 48 HOURS OF RECEIVING ALL INFORMATION REQUESTED OF THE DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER, A PROVIDER SHALL DO ALL OF THE FOLLOWING:

(A) CREATE A REPAYMENT PLAN REQUIRING MINIMUM MONTHLY PAYMENTS THAT ALLOWS THE DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER TO PAY ANY PAST DUE AMOUNTS OVER A REASONABLE TIME PERIOD NOT TO EXCEED 1 YEAR.

(B) PROVIDE A DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER WITH INFORMATION REGARDING ANY GOVERNMENTAL, PROVIDER, OR OTHER ASSISTANCE PROGRAMS.

(8) THIS SECTION DOES NOT AFFECT OR AMEND ANY COMMISSION RULES OR ORDERS PERTAINING TO BILLING STANDARDS. IF THE TERMS AND CONDITIONS ARRANGED BY THE PROVIDER WITH THE DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER UNDER SUBSECTION (7) ARE NOT FOLLOWED BY THE CUSTOMER, THEN THE PROVIDER SHALL FOLLOW PROCEDURES AS SET FORTH IN THE COMMISSION'S BILLING STANDARDS FOR BASIC RESIDENTIAL TELECOMMUNICATION SERVICE.>>

20 Sec. 315. (1) The commission shall require each provider of
21 basic local exchange service to provide a text telephone-
22 telecommunications device for the deaf at costs to each individual
23 who is certified as deaf or ~~severely hearing~~ **HARD OF HEARING** or
24 speech-impaired by a licensed physician, **LICENSED** audiologist, or
25 qualified state agency, and to each public safety answering point
26 as defined in section 102 of the emergency telephone service
27 enabling act, ~~Act No. 32 of the Public Acts of 1986, being section~~

1 ~~484.1102 of the Michigan Compiled Laws— 1986 PA 32, MCL 484.1102.~~

2 (2) The commission shall require each provider of basic local
3 exchange service to provide a telecommunication relay service
4 whereby persons using a text telephone-telecommunications device
5 for the deaf can communicate with persons using a voice telephone
6 through the use of third party intervention or automated
7 translation. Each provider of basic local exchange service shall
8 determine whether to provide a telecommunication relay service on
9 its own, jointly with other basic local exchange providers, or by
10 contract with other telecommunication providers. The commission
11 shall determine the technical standards and essential features of
12 text telephone and telecommunication relay service to ensure their
13 compatibility and reliability.

14 ~~—— (3) The commission shall appoint a 3-person advisory board~~
15 ~~consisting of a representative of the deaf community, the~~
16 ~~commission staff, and providers of basic local exchange service to~~
17 ~~assist in administering this section. The advisory board shall hold~~
18 ~~meetings, open to the public, at least once each 3 months, shall~~
19 ~~periodically seek input on the administration of this section from~~
20 ~~members of the deaf, hearing, or speech impaired community, and~~
21 ~~shall report to the commission at least annually. The advisory~~
22 ~~board shall investigate and make recommendations on the feasibility~~
23 ~~of hiring a reasonably prudent number of people from the deaf or~~
24 ~~hearing impaired and speech impaired community to work in the~~
25 ~~provision of telecommunication relay service.~~

26 (3) THE MICHIGAN TELECOMMUNICATION RELAY SERVICE ADVISORY
27 BOARD IS CREATED WITHIN THE DEPARTMENT. THE BOARD SHALL CONSIST OF

1 9 MEMBERS. ONE MEMBER SHALL BE THE CHAIR OF THE COMMISSION OR HIS
2 OR HER DESIGNATED REPRESENTATIVE. ONE MEMBER SHALL THE DIRECTOR OF
3 THE DIVISION ON DEAF AND HARD OF HEARING WITHIN THE DEPARTMENT OR
4 HIS OR HER DESIGNATED REPRESENTATIVE. ONE MEMBER SHALL BE A DEAF
5 CONSUMER APPOINTED BY THE DIRECTOR OF THE DEPARTMENT UPON THE
6 RECOMMENDATION OF THE MICHIGAN DEAF ASSOCIATION. ONE MEMBER SHALL
7 BE A HARD OF HEARING CONSUMER APPOINTED BY THE DEPARTMENT UPON THE
8 RECOMMENDATION OF MICHIGAN SELF-HELP FOR HARD OF HEARING. ONE
9 MEMBER SHALL BE A SPEECH IMPAIRED CONSUMER APPOINTED BY THE
10 DIRECTOR OF THE DEPARTMENT. FOUR MEMBERS SHALL BE APPOINTED BY THE
11 DIRECTOR OF THE DEPARTMENT TO REPRESENT TELECOMMUNICATION
12 PROVIDERS. APPOINTED MEMBERS SHALL BE APPOINTED FOR TERMS OF 4
13 YEARS. A VACANCY ON THE BOARD SHALL BE FILLED IN THE SAME MANNER AS
14 THE ORIGINAL APPOINTMENT FOR THE REMAINDER OF THE UNEXPIRED TERM.

15 (4) THE BOARD SHALL DESIGNATE FROM AMONG ITS APPOINTED MEMBERS
16 A CHAIRPERSON AND VICE-CHAIRPERSON, WHO SHALL SERVE FOR 2-YEAR
17 TERMS AND WHO MAY BE REELECTED. THE BOARD SHALL MEET NOT LESS THAN
18 4 TIMES EACH YEAR. SPECIAL MEETINGS MAY BE CALLED BY THE
19 CHAIRPERSON, OR UPON WRITTEN REQUEST OF NOT LESS THAN 4 BOARD
20 MEMBERS. MEETINGS SHALL BE HELD AT A LOCATION DESIGNATED BY THE
21 CHAIRPERSON.

22 (5) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION, BUT
23 SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES.

24 (6) STAFF SERVICES SHALL BE PERFORMED BY PERSONNEL OF THE
25 DEPARTMENT. ASSISTANCE SHALL ALSO BE MADE AVAILABLE, AS REQUESTED
26 BY THE BOARD, FROM OTHER AGENCIES, DEPARTMENTS, AND AUTHORITIES OF
27 THE STATE. THE BOARD MAY EMPLOY A STAFF TO ASSIST IT IN THE

1 PERFORMANCE OF ITS DUTIES, SUBJECT TO CIVIL SERVICE RULES AND
2 WITHIN FISCAL RESTRAINTS.

3 (7) A MAJORITY OF THE MEMBERS APPOINTED TO AND SERVING ON THE
4 BOARD CONSTITUTE A QUORUM. A MAJORITY VOTE OF THE MEMBERS VOTING
5 SHALL BE REQUIRED TO PASS UPON ANY QUESTION, ACTION, OR BUSINESS OF
6 THE BOARD.

7 (8) THE BUSINESS PERFORMED BY THE BOARD SHALL BE CONDUCTED AT
8 A PUBLIC MEETING OF THE BOARD. THE BOARD SHALL KEEP MINUTES OF ITS
9 PROCEEDINGS, SHOWING THE VOTE OF EACH MEMBER ON EACH PROPOSITION OR
10 QUESTION, OR INDICATING IF A MEMBER IS ABSENT OR FAILS TO VOTE. A
11 RECORD OF BOARD ACTION AND BUSINESS SHALL BE MADE AND MAINTAINED.

12 (9) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
13 RETAINED BY THE BOARD IN THE PERFORMANCE OF AN OFFICIAL FUNCTION
14 SHALL BE MADE AVAILABLE TO THE PUBLIC.

15 (10) ~~—(4)—~~ Rates and charges for calls placed through a
16 telecommunication relay service shall not exceed the rates and
17 charges for calls placed directly from the same originating
18 location to the same terminating location. Unless ordered by the
19 commission, a provider of a telecommunications relay service shall
20 not be required to handle calls from public telephones except for
21 calls charged collect, cash, to a credit card, or third party
22 number.

23 (11) ~~—(5)—~~ Notwithstanding any other provision of this act, a
24 provider may offer discounts on toll calls where a text telephone-
25 telecommunications device for the deaf is used. The commission
26 shall not prohibit such discounts on toll calls placed through a
27 telecommunication relay service.

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(12) ~~—(6)—~~ The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section and may waive the costs assessed under this section to individuals who are deaf or severely hearing impaired or speech impaired.

(13) NO LATER THAN JANUARY 1, 2008, THE BOARD SHALL CONDUCT A STUDY AND REPORT TO THE GOVERNOR AND THE HOUSE AND SENATE STANDING COMMITTEES WITH OVERSIGHT OF TELECOMMUNICATION ISSUES ON THE ABILITY FOR DEAF, HARD OF HEARING, AND SPEECH IMPAIRED CUSTOMERS TO ACCESS TELECOMMUNICATION SERVICES. THE REPORT SHALL INCLUDE, BUT IS NOT LIMITED TO, ACTIVITIES BY THE COMMISSION TO ENSURE REASONABLE ACCESS, IMPEDIMENTS TO ACCESS, IDENTIFICATION OF ACTIVITIES IN OTHER STATES TO IMPROVE ACCESS, AND RECOMMENDATIONS FOR LEGISLATION, IF ANY.

(14) AS USED IN THIS SECTION:

(A) "BOARD" MEANS THE MICHIGAN TELECOMMUNICATION RELAY SERVICE ADVISORY BOARD CREATED UNDER SUBSECTION (3).

(B) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH.

[Sec. 316. (1) The commission shall require each provider of residential basic local exchange service to offer certain low income customers the availability of basic local exchange service and access service at reduced rates as described in subsections (2) and (3).

(2) Except as provided under subsections (3) and (4), the rate reductions for low income customers shall be at a minimum, 20% of the basic local exchange rate or \$8.25, which shall be inclusive of any federal contribution, whichever is greater.

(3) If the low income customer is 65 years of age or more, the rate reduction shall be at a minimum, 25% of the basic local exchange rate or ~~\$8.25~~ \$12.35, which shall be inclusive of any federal contribution, whichever is greater.

(4) The total reduction under subsection (2) or (3) shall not exceed 100% of all end-user common line charges and the basic local exchange rate. **THE DOLLAR AMOUNTS IN SUBSECTIONS (2) AND (3) SHALL BE ADJUSTED ANNUALLY TO REFLECT ANY INCREASES OR DECREASES IN THE FEDERAL CONTRIBUTION.**

(5) To qualify for the reduced rate under this section, the person's annual income shall not exceed 150% of the federal poverty

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 income standards as determined by the United States office of management
 and budget and as approved by the state treasurer, **OR THE PERSON MUST
 PARTICIPATE IN 1 OF THE FOLLOWING FEDERAL ASSISTANCE PROGRAMS:**

- (A) MEDICAID.
- (B) FOOD STAMPS.
- (C) SUPPLEMENTAL SECURITY INCOME.
- (D) FEDERAL PUBLIC HOUSING ASSISTANCE.
- (E) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.
- (F) NATIONAL SCHOOL LUNCH PROGRAM'S FREE LUNCH PROGRAM.
- (G) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.

(6) The commission shall establish a rate for each subscriber line
 of a provider to allow the provider to recover costs incurred under this
 section.

(7) The commission shall take necessary action to notify the
 general public of the availability of lifeline services including, but
 not limited to, public service announcements, newspaper notices, and such
 other notice reasonably calculated to reach those who may benefit from
 the services.]

20 Sec. 316a. (1) As used in this section:

21 (a) "Affordable rates" means, at a minimum, rates in effect on
 22 January 1, ~~2001~~ 2006 or as determined by the commission.

23 (b) "Intrastate universal service fund" means a fund created
 24 by the commission to provide a subsidy to customers for the
 25 provision of supported telecommunication services provided by any
 26 telecommunication carrier.

27 (c) "Supported telecommunication services" means primary

1 residential access lines and a minimum level of local usage on
2 those lines, as determined by the commission.

3 (d) "Universal service" shall mean the provision of supported
4 telecommunication services by any carrier.

5 ~~—— (2) No sooner than July 1, 2002, the commission shall initiate~~
6 ~~an investigation to determine whether an intrastate universal~~
7 ~~service fund should be created. The commission shall complete the~~
8 ~~investigation no sooner than December 1, 2002. All providers shall~~
9 ~~be made respondents in the proceeding and any other interested~~
10 ~~party may participate and intervene in the proceeding.~~

11 (2) ~~—(3)—~~ The commission shall determine for each provider
12 whether and to what extent the affordable rate level to provide
13 supported telecommunication services is below each provider's
14 forward looking economic cost of the supported telecommunication
15 services.

16 (3) ~~—(4)—~~ If ~~a~~ **AN INTRASTATE UNIVERSAL** fund is created under
17 this section, to the extent providers provide supported
18 telecommunication services at an affordable rate that is below the
19 forward looking economic cost of the supported telecommunication
20 services, the fund shall provide a subsidy for customers in an
21 amount which is equal to the difference between the affordable rate
22 as determined by the commission and the forward looking economic
23 cost of the supported services, less any federal universal service
24 support received for those supported services.

25 (4) ~~—(5)—~~ Eligibility for customers to receive intrastate
26 universal service support under subsection ~~—(4)—~~ (3) shall be
27 consistent with the eligibility guidelines of section 254(e) of the

1 telecommunications act of 1996 and the rules and regulations of the
2 federal communications commission. The state fund shall be
3 administered by an independent third-party administrator selected
4 by the commission.

5 (5) ~~—(6)—~~ To the extent an intrastate universal service fund
6 is established, the commission shall require that the costs of the
7 fund be recovered from all telecommunication providers on a
8 competitively neutral basis. Providers contributing to the
9 intrastate universal service fund may recover from end-users the
10 costs of the financial support through surcharges assessed on end-
11 users' bills.

12 (6) ~~—(7)—~~ Upon request or on its own motion, the commission,
13 after notice and hearing, shall determine if, based upon changes in
14 technology or other factors, the findings made under this section
15 should be reviewed.

16 (7) ~~—(8)—~~ This section does not apply if an interstate
17 universal service fund exists on the federal level unless otherwise
18 approved by the commission.

19 Sec. 317. ~~—(1) The commission shall adopt operating~~
20 ~~requirements for operator service providers. The requirements shall~~
21 ~~include the following:~~

22 ~~—— (a) That an OSP shall furnish each entity with which the OSP~~
23 ~~contracts to provide operator service a sticker, card, or other~~
24 ~~form of information for each telephone that has access to the~~
25 ~~operator service. The information shall include the name of the~~
26 ~~operator service provider, a toll free customer service telephone~~
27 ~~number, and a statement that charges imposed by the operator~~

~~service provider may be obtained by calling the toll-free telephone number. The operator service provider shall require by contract that the entity receiving the information display the information on or near each of the telephones that has access to the service.~~

~~—— (b) Prior to the connection of each call, the operator service provider shall do all of the following:~~

~~—— (i) Announce the operator service provider's name.~~

~~—— (ii) Quote, at the caller's request and without charge, the rate and any other fees or surcharges applicable to the call charged by the operator service provider.~~

~~—— (c) Allow a caller to choose the carrier of his or her choice by doing either of the following:~~

~~—— (i) After informing the caller that the rates for the call may not reflect the rates for a call from the location of the caller and receiving the caller's consent, transfer the caller to the carrier of his or her choice without charge.~~

~~—— (ii) Instruct the caller how to reach his or her carrier of choice by dialing the carrier's 950, 1-800, or 10-XXX access service method.~~

~~—— (d) Allow callers to the operator service provider to reach emergency services without charge.~~

~~(1) —(2)—~~ An operator service provider shall not provide operator services in this state without first registering with the commission. The registration shall include the following information:

(a) The name of the provider.

(b) The address of the provider's principal office.

1 (c) If the provider is not located in this state, the address
2 of the registered office and the name of the registered agent
3 authorized to receive service of process in this state.

4 (d) Any other information that the commission may require.

5 (2) ~~—(3)—~~ The registration shall be accompanied with a
6 registration fee of \$100.00.

7 (3) ~~—(4)—~~ The registration is effective immediately upon
8 filing with the commission and the payment of the registration fee
9 and shall remain in effect for 1 year from its effective date.

10 (4) ~~—(5)—~~ A registration may be renewed for 1 year by filing
11 with the commission a renewal registration on a form provided by
12 the commission and the payment of a renewal fee of \$100.00.

13 ~~——(6) Except as otherwise authorized by the commission, a~~
14 ~~provider under this section shall not charge a rate for operator~~
15 ~~services or toll service that is greater than 300% of the state~~
16 ~~average rate for operator or toll service by providers of regulated~~
17 ~~toll service.~~

18 ~~——(7) A provider shall not discontinue basic local exchange~~
19 ~~service for failure by a person to pay an OSP charge.~~

20 ~~——(8) In addition to any other penalty under this act, a person~~
21 ~~who is charged for the use of an operator service provider or is~~
22 ~~denied access to emergency services in violation of this section~~
23 ~~may bring a civil action against the OSP to recover actual damages~~
24 ~~or \$250.00, whichever is greater, plus all reasonable attorney~~
25 ~~fees.~~

26 (5) AT NO CHARGE, AN OPERATOR SERVICE PROVIDER SHALL
27 IMMEDIATELY CONNECT A PERSON MAKING AN EMERGENCY CALL TO AN

1 **EMERGENCY RESPONDER SERVICE.**

2 Sec. 321. ~~Except as otherwise provided under section 304a, a~~
 3 **A** provider of a regulated telecommunication service shall not
 4 charge a rate for the service that is less than the total service
 5 long run incremental cost of providing the service.

6 Sec. 352. (1) ~~Until January 1, 1997, the~~ **THE** rates of a
 7 provider of basic local exchange service for interconnection under
 8 this article shall be at the provider's total service long run
 9 incremental cost of providing the service. ~~After January 1, 1997,~~
 10 ~~the rate for interconnection shall be just and reasonable as~~
 11 ~~determined by the commission.~~

12 (2) The rates for **NETWORK ELEMENTS AND COMBINATIONS OF NETWORK**
 13 **ELEMENTS**, unbundled loops, number portability, and the termination
 14 of local traffic shall be the rates established ~~under~~ **BY THE**
 15 commission. ~~case U-10647 and shall remain in effect until new~~
 16 ~~total service long run incremental cost studies for such services~~
 17 ~~have been approved by the commission.~~

18 (3) **THE RATE OF A NETWORK ELEMENT SHALL NOT EXCEED EITHER OF**
 19 **THE FOLLOWING:**

20 **(A) THE TARIFFED OR CONTRACT RATE A RETAIL CUSTOMER OR**
 21 **AFFILIATE IS OR WOULD BE CHARGED FOR THE ELEMENT, SERVICE, OR ITS**
 22 **FUNCTIONAL EQUIVALENT.**

23 **(B) THE RATE AND OTHER APPROPRIATE CHARGES, OR PORTIONS OF**
 24 **CHARGES, IF ANY, TO BE DETERMINED BY THE COMMISSION, OF A RETAIL**
 25 **SERVICE WHICH INCLUDES THE SAME NETWORK ELEMENT LESS THE TOTAL**
 26 **SERVICE LONG RUN INCREMENTAL COSTS OF ALL OTHER COMPONENTS THAT**
 27 **TOGETHER FORM THE SAME RETAIL SERVICE.**

1 (4) IF THE NETWORK ELEMENT IMPUTATION TEST IN SUBSECTION (3)
2 IS NOT MET, THE UNBUNDLED NETWORK ELEMENT RATE SHALL BE REDUCED
3 UNTIL THE NETWORK ELEMENT RATE MEETS THAT STANDARD.

4 (5) EXISTING NETWORK ELEMENT RATES MAY BE REVISED OR NEW
5 NETWORK ELEMENT RATES ESTABLISHED BY THE COMMISSION AFTER NOTICE
6 AND HEARING. TO INITIATE A PROCEEDING UNDER THIS SUBSECTION, A
7 PARTY SHALL FILE WITH THE COMMISSION A PETITION TO ESTABLISH OR
8 ALTER NETWORK ELEMENT RATES. THE PETITION SHALL CLEARLY STATE THE
9 PROPOSED RATE OR RATES AND INCLUDE REASONABLE DOCUMENTARY SUPPORT
10 FOR THE PROPOSED RATE OR RATES. IF THE PETITIONER SEEKS AN INCREASE
11 TO A PREVIOUSLY COMMISSION ORDERED RATE, THE PETITIONER SHALL
12 DEMONSTRATE THAT THE PROPOSED REVISION RESULTS FROM AN INCREASE IN
13 UNDERLYING COST AND THE INCREASE IN UNDERLYING COST HAS BEEN
14 REFLECTED IN RETAIL RATES.

15 Sec. 353. The commission shall issue a report and make
16 recommendations to the legislature and the governor on or before
17 January 1, ~~1998~~ 2007 involving the issues, scope, terms, and
18 conditions of interconnection of telecommunication providers with
19 the basic local exchange service.

20 SEC. 353A. (1) WHEN NEGOTIATING A SUCCESSOR INTERCONNECTION
21 AGREEMENT, UNLESS THE PARTIES AGREE OTHERWISE, THE PARTIES SHALL
22 USE AN INTERCONNECTION AGREEMENT WHICH HAS BEEN APPROVED BY THE
23 COMMISSION IN THE 3-YEAR PERIOD IMMEDIATELY PRECEDING THE
24 COMMENCEMENT OF NEGOTIATIONS AS THE BASELINE DOCUMENT. A PARTY
25 REQUESTING THE ADOPTION OF LANGUAGE DIFFERENT THAN THAT FOUND IN
26 THE BASELINE DOCUMENT IN AN ARBITRATION PROCEEDING BEARS THE BURDEN
27 OF PERSUASION THAT THE REQUESTED CHANGE IS LAWFUL AND APPROPRIATE.

(2) IF A PARTY NEGOTIATING AN INTERCONNECTION AGREEMENT TAKES A POSITION THAT THE OPPOSING PARTY BELIEVES IS CONTRARY TO A PRIOR RULING OF THE COMMISSION IN AN ARBITRATION PROCEEDING, THE OPPOSING PARTY SHALL FILE A MOTION WITH THE COMMISSION FOR A DETERMINATION UNDER THIS SECTION. THE MOTION SHALL BE FILED NO LATER THAN 90 DAYS FROM THE COMMENCEMENT OF NEGOTIATIONS. THE COMMISSION SHALL RULE UPON THE MOTION WITHIN 21 DAYS OF THE DATE THE MOTION IS FILED, AND THE COMMISSION SHALL DETERMINE THE EXTENT TO WHICH THE ISSUE MAY BE RELITIGATED.

Sec. 355. (1) ~~On or before January 1, 1996, a~~ A provider of basic local exchange service shall unbundle and separately price each basic local exchange service offered by the provider into the loop and port components and allow other providers to purchase such services on a nondiscriminatory basis.

(2) Unbundled services and points of interconnection shall include at a minimum the loop and the switch port.

Sec. 357. (1) A provider of local exchange service shall make available for resale on nondiscriminatory terms and conditions all basic local exchange services that on January 1, 1996 it is offering to its retail customers. Resale shall be provided on a wholesale basis.

(2) Except for restrictions on resale, a provider of local exchange service may include in its wholesale tariffs any use or class of customer restrictions it includes in its retail tariffs.

(3) A provider of local exchange service is not required to offer for resale either of the following:

(a) A package of services where basic local exchange service

1 is jointly marketed or combined with other services, or for any
2 promotional or discounted offering of basic local exchange service.

3 (b) Services for which the provider does not have existing
4 facilities in place to serve the intended end user, or any service
5 offered for the first time subsequent to March 1, 1996.

6 (4) ~~No later than January 1, 1996, each~~ **EACH** provider of
7 local exchange service shall file tariffs with the commission which
8 set forth the wholesale rates, terms, and conditions for basic
9 local exchange services. The wholesale rates shall be set at levels
10 no greater than the provider's current retail rates less the
11 provider's avoided costs.

12 (5) ~~After January 1, 2000, wholesale~~ **WHOLESALE** rates shall
13 not be less than the provider's total service long run incremental
14 cost of the services.

15 (6) **THIS SECTION DOES NOT APPLY AFTER DECEMBER 31, 2007.**

16 Sec. 358. (1) As used in this section, "number portability"
17 means the capability for a local exchange customer at a particular
18 location to change providers of basic local exchange service
19 without any change in the local exchange customer's telephone
20 number, while preserving the full range of functionality that the
21 customer could obtain by changing telephone numbers.

22 (2) ~~No later than January 1, 1999, a~~ **A** provider of basic
23 local exchange service shall provide number portability. **THE**
24 **COMMISSION SHALL, CONSISTENT WITH FEDERAL LAW, ENFORCE NUMBER**
25 **PORTABILITY, NUMBER ADMINISTRATION, NUMBER RECLAMATION, AND NUMBER**
26 **ASSIGNMENT BETWEEN REGULATED AND UNREGULATED PROVIDERS.**

27 ~~—— (3) If the commission determines that it is economically and~~

~~technologically feasible to provide number portability before the date required under subsection (2), the commission shall order providers of basic local exchange service to provide the service before that date.~~

~~—— (4) Until number portability is available, a provider of basic local exchange service shall make available to other providers direct inward dialing and remote call forwarding.~~

Sec. 359. (1) ~~No later than January 1, 1996~~ **EXCEPT AS OTHERWISE PROVIDED BY FEDERAL LAW**, a provider of basic local exchange service shall establish a rate charge for other providers of basic local exchange service for the termination of local traffic on its network as provided under section 352.

(2) This section does not prohibit providers of basic local exchange service from entering into an agreement to provide for the exchange of local traffic on other terms and conditions. Any compensation arrangements agreed to between providers under this subsection shall be available to other providers with the same terms and conditions on a nondiscriminatory basis.

Sec. 401. (1) Except as otherwise provided by law or preempted by federal law, the commission shall not have authority over enhanced services, paging, cellular, mobile, ~~and~~ answering services, **RETAIL BROADBAND SERVICE**, video, cable service, pay-per-view, shared tenant, private networks, financial services networks, radio and television, WATS, personal communication networks, municipally owned telecommunication system, 800 prefix services, burglar and fire alarm services, energy management services, except for state institutions of higher education the reselling of centrex

1 or its equivalent, payphone services, and the reselling of an
2 unlicensed telecommunication service. The foregoing services shall
3 not be considered part of basic local exchange service.

4 (2) ~~Except as otherwise provided by this act, the~~ **THE**
5 commission shall ~~not~~ have ~~the~~ authority over ~~a~~ **THE**
6 telecommunication ~~service not~~ **SERVICES** specifically provided for
7 in this act.

8 Sec. 502. (1) A provider of a telecommunication service shall
9 not do any of the following:

10 (a) Make a statement or representation, including the omission
11 of material information, regarding the rates, terms, or conditions
12 of providing a telecommunication service that is false, misleading,
13 or deceptive. **AS USED IN THIS SUBDIVISION, "MATERIAL INFORMATION"**
14 **INCLUDES, BUT IS NOT LIMITED TO, ALL APPLICABLE FEES, TAXES, AND**
15 **CHARGES THAT WILL BE BILLED TO THE END-USER, REGARDLESS OF WHETHER**
16 **THE FEES, TAXES, OR CHARGES ARE AUTHORIZED BY STATE OR FEDERAL LAW.**

17 (b) Charge an end-user for a subscribed service that the end-
18 user did not make an initial affirmative order. Failure to refuse
19 an offered or proposed subscribed service is not an affirmative
20 order for the service.

21 (c) If an end-user has canceled a service, charge the end-user
22 for service provided after the effective date the service was
23 canceled.

24 (d) If a residential end-user has orally ordered a service,
25 fail to confirm the order in writing within 15 days after the
26 service is ordered.

27 (e) State to an end-user that their basic local exchange

1 service or other regulated service will be discontinued unless the
2 end-user pays a charge that is due for an unregulated service.

3 (f) Disparage the services, business, or reputation of another
4 by false, **DECEPTIVE**, or misleading representation of fact.

5 (g) Represent to a party to whom services are supplied that
6 the services are being supplied in response to a request made by or
7 on behalf of the party when they are not.

8 (h) Cause a probability of confusion or a misunderstanding as
9 to the legal rights, obligations, or remedies of a party to a
10 transaction **BY MAKING A FALSE, DECEPTIVE, OR MISLEADING STATEMENT**
11 **OR BY FAILING TO INFORM THE CUSTOMER OF A MATERIAL FACT, THE**
12 **OMISSION OF WHICH IS DECEPTIVE OR MISLEADING.**

13 (i) Represent or imply that the subject of a transaction will
14 be provided promptly, or at a specified time, or within a
15 reasonable time, if the provider knows or has reason to know it
16 will not be so provided.

17 (j) Cause coercion and duress as a result of the time and
18 nature of a sales presentation.

19 **(K) REQUIRE THE PURCHASE OF A REGULATED SERVICE OF THE**
20 **PROVIDER AS A CONDITION OF PURCHASING AN UNREGULATED SERVICE.**

21 **(L) IF A DISPUTE EXISTS BETWEEN A CUSTOMER AND THE PROVIDER,**
22 **DISCONNECT SERVICE TO THE CUSTOMER BEFORE THE RESOLUTION OF A**
23 **DISPUTE.**

24 (2) When the commission has authority to bring a proceeding
25 for violation of this section, the commission may accept an
26 assurance of discontinuance of a method, act, or practice which is
27 alleged to be unlawful under this section from the person who is

House Bill No. 5237 as amended November 3, 2005

1 alleged to have engaged, be engaging, or be about to engage in the
2 method, act, or practice. The assurance shall not be an admission
3 of guilt or be introduced in any other proceeding. Unless rescinded
4 by the parties or voided by the court for good cause, the assurance
5 may be enforced in the circuit court by the parties to the
6 assurance. The assurance may include a stipulation for any of the
7 following:

8 (a) The voluntary payment by the person for the cost of
9 investigation.

10 (b) An amount to be held in escrow pending the outcome of an
11 action.

12 (c) An amount for restitution to an aggrieved person.

<<Sec. 504. Each ~~regulated~~ telecommunications provider **DOING BUSINESS IN THIS STATE** shall file with the commission a small and minority owned telecommunication business, as defined by the department of management and budget, participation plan ~~within 60 days of the effective date of this act.~~ **Competing telecommunication providers NO LATER THAN MARCH 1, 2006. A NEW PROVIDER SEEKING TO DO BUSINESS IN THIS STATE** shall file such a plan with the commission with ~~their~~ **ITS** application for license. ~~Such~~ **THE** plan shall contain ~~such~~ **THE** entity's plan for purchasing goods and services from small and minority telecommunications businesses and information on programs, if any, to provide technical assistance to ~~such~~ **SMALL AND MINORITY TELECOMMUNICATIONS** businesses.>>

13 Sec. 505. (1) An end user of a telecommunications provider
14 shall not be switched to another provider without the authorization
15 of the end user.

16 (2) The commission shall issue orders to ensure that an end
17 user of a telecommunications provider is not switched to another
18 provider without the end user's oral authorization, written
19 confirmation, confirmation through an independent third party, or
20 other verification procedures subject to commission approval,
21 confirming the end user's intent to make a switch and that the end
22 user has approved the specific details of the switch. The order
23 issued under this section shall require that all providers comply
24 with the regulations established by the federal communications
25 commission on verification procedures for the switching of an end
26 user's telecommunications provider.

27 ~~—— (3) As used in this section and section 506—~~

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1 ~~—— (a) "End user" means the retail subscriber of a~~
2 ~~telecommunications service.~~

3 ~~—— (b) "Telecommunications provider" or "provider" means a person~~
4 ~~that provides 1 or more telecommunications services for~~
5 ~~compensation. Telecommunications provider does not include a~~
6 ~~provider of commercial mobile service as defined in section~~
7 ~~332(d)(1) or part I of title III of the communications act of 1934,~~
8 ~~chapter 652, 96 Stat. 1096, 47 U.S.C. 332.~~

9 Sec. 604. This act is repealed effective December 31, ~~2005~~
10 **2009.**

11 Enacting section 1. Sections 207, 208, 304a, 304b, 312a, 319,
12 322, 354, 360, << >> and 701 of the Michigan telecommunications act,
13 1991 PA 179, MCL 484.2207, 484.2208, 484.2304a, 484.2304b,
14 484.2312a, 484.2319, 484.2322, 484.2354, 484.2360, << >> and
15 484.2701, are repealed.